

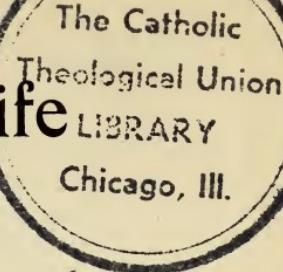
BOOK OF LIFE

KAZENBERGER

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The Book of Life

OR



A BRIEF LITERAL EXPOSITION

of the Holy Rule of the

Seraphic Father St. Francis,

Founder of the Order of Friars Minor,

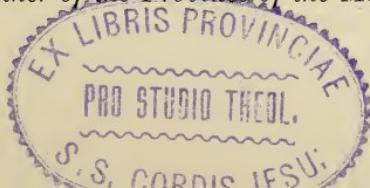
According to the Declarations of the
Supreme Pontiffs Nicholas III. and Clement V. and to the
Expositions of approved Doctors.

Arranged in the form of questions and answers
for the use and practice of Friars of the Order of Minors
vowing to observe the Rule of our Seraphic Father St. Francis
ad litteram.

By P. KILIAN KAZENBERGER, O. F. M.,

Lector Jub. of S. Theology and Ex-Provincial of the
Province of South Germany.

*Reedited in conformity with the newest laws and the General
Constitutions of the Order, and translated into English
by a Father of the Province of the Most Holy Name.*



REIMPRIMATUR.

Assisii ex Curia Episcopali, 26 Aprilis, 1899.

✠ ALOYSIUS, Episcopus.

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APPROBATION
OF THE
MINISTER GENERAL
OF THE
WHOLE ORDER OF FRIARS MINOR.

SINCE the work entitled *LIBER VITAE*, or *Compendiosa Expositio Litteralis in S. Regulam S. P. Francisci Seraphici*, by P. F. Kilian Kazenberger, adjusted to the new decrees of the Holy See, has been examined and approved by two Theologians, we grant permission for it to be printed anew, and earnestly commend its use.

Rome, at St. Antony's, April 16, 1899.

FR. ALOYSIUS LAUER,

Min. Glis.

TRANSLATOR'S PREFACE.

The present translation of the *LIBER VITAE* is made from the revised edition of that well-known work published at St. Mary of the Angels, near Assisi, in 1899. The aim of the translator has been to render the Latin text as literally as may be into English, without any addition or omission save only that the majority of the footnotes contained in the Latin edition have not been translated.

IMPRIMATUR.

Datum in Conventu nostro Patersonensi, ad St. Bonaventuram, D. S., die 14. Julii, 1905.

FR. EDUARDUS BLECKE,
Minister Provincialis.

C O N T E N T S.

	Page
Preface to the Latin Edition	5
Introduction	7
<i>Question 1.</i> Which Rule is to be observed by the Friars Minor?	9
<i>Question 2.</i> Whether or not this Rule of the Friars Minor of St. Francis is the most perfect?	11
<i>Question 3.</i> What does it mean to observe the Rule of the Friars Minor <i>ad litteram</i> , or to live according to the purity of the Rule?	14
<i>Question 4.</i> Whether or not Friars Minor vowed to observe their Rule <i>ad litteram</i> are held to be perfect?	17
<i>Question 5.</i> To how many and to which things is a Friar Minor held under mortal sin from the observance of his Rule?	19
<i>Question 6.</i> Whether or not the observance of the Rule <i>ad litteram</i> is only one and undivided?	25
<i>Question 7.</i> Whether or not ignorance of the obligations of the Rule vowed excuses from their observance?	27
<i>Question 8.</i> Whether or not a Friar Minor of Simple Profession is held to the observance of the Rule?	30
Bull of His Holiness Pope Honorius III. on the Rule of the Friars Minor	31

CHAPTER I.

In the Name of the Lord. Here begins the life of the Friars Minor.	32
<i>Question 1.</i> Whether or not the Friars Minor are bound under mortal sin, by virtue of their vows and Rule, to all that is contained in the Gospel?	32
<i>Question 2.</i> To what is a Friar Minor held by his vow of obedience?	32
<i>Question 3.</i> To what is a Friar Minor held by his vow of poverty?	35
<i>Question 4.</i> To what is a Friar Minor held by his vow of chastity?	36
<i>Question 5.</i> Whether or not the Friars Minor are held by a special precept to obey the Roman Pontiff and the Roman Church above other Religious and Christians?	40
<i>Question 6.</i> Who is the successor of our Holy Father St. Francis whom all the Friars are bound to obey?	42
	44

	Page
CHAPTER II.	
Of those who desire to embrace this life and how they are to be received.....	46
<i>Question 1. Concerning the reception of novices to the Order of Friars Minor</i>	47
<i>Question 2. Concerning the conditions necessary for entering the Order of Friars Minor.....</i>	52
<i>Question 3. Concerning the habit and profession of novices</i>	58
<i>Question 4. Concerning the habit and clothes of the professed Friars</i>	63
CHAPTER III.	
Of the Divine Office and of Fasting, and in what manner the Friars are to go about the world.....	72
<i>Question 1. Concerning the Divine Office of Clerics.....</i>	73
<i>Question 2. Of the Divine Office of Lay Brothers</i>	79
<i>Question 3. Of the fasts to which the Friars Minor are obliged by the Rule</i>	82
<i>Question 4. Whether or not the Friars Minor are permitted to ride on horseback, or on other conveyances ?</i>	91
CHAPTER IV.	
That the Friars may not receive money.....	99
<i>Question 1. Whether or not the Friars Minor may in any manner receive money by themselves or by any intermediary, or whether or not they may have any use of money?</i>	99
<i>Question 2. To whom does money, sent to the Friars, or offerings deposited with the Apostolic Syndic or some spiritual friend, or bequeathed by legacies, or owed from vows, belong?</i>	107
<i>Question 3. Whether or not it is lawful for the Friars Minor to make use of Apostolic Syndics and what are the duties of the latter?</i>	111
<i>Question 4. What is it to have recourse to spiritual friends, and to whom of the Friars Minor is such recourse permitted?</i>	122
<i>Question 5. When and for what necessities can the Friars Minor have recourse to spiritual friends to make pecuniary payment?</i>	127
<i>Question 6. What method is to be observed in having recourse to spiritual friends and the Apostolic Syndics, regarding cash payment for the necessities of the Friars ?</i>	136
CHAPTER V.	
Of the manner of working.....	144
<i>Question 1. Whether or not there is any special precept in the Rule of doing manual labor?</i>	144

CONTENTS.

III

Page

<i>Question 2.</i> What necessaries of the body may the Friars receive for the recompense of their labor?	147
---	-----

CHAPTER VI.

That the Friars appropriate nothing to themselves, and of asking alms, and of the sick Friars.	151
<i>Question 1.</i> Whether or not the Friars Minor can either in common or as individuals appropriate anything or its use to themselves?	151
<i>Question 2.</i> Of what things may the Friars Minor have the simple use and whether or not there may be proprietorship in the simple use? Also to what strictness are the Friars Minor bound in the use of things?	157
<i>Question 3.</i> Whether or not it be lawful for the Friars Minor to buy, sell, exchange, borrow, give away, etc.?	163
<i>Question 4.</i> Whether or not the Friars Minor are bound to beg from door to door, and whether or not they can have annual revenues, or receive things left by will, or make yearly provision, etc.?	170
<i>Question 5.</i> In what does the height of the poverty of the Friars Minor consist?	176
<i>Question 6.</i> Whether or not the Friars Minor are bound to serve their sick brethren as they would wish to be served themselves?	179

CHAPTER VII.

Of penance to be imposed on the Friars who sin.	183
<i>Question 1.</i> What cases or sins are reserved in the Order?	183
Brief explanation of the cases reserved in the Order	186
<i>Question 2.</i> To whom are the Friars Minor bound to have recourse in order to obtain absolution from reserved cases?	193
<i>Question 3.</i> Whether or not the Provincial Ministers can delegate to any confessor outside the Order the power of absolving their Friars from sins, even from those that are reserved?	197

CHAPTER VIII.

Of the election of the Minister General of this Fraternity and of the Chapter of Pentecost.	200
<i>Question 1.</i> Whether or not the Friars Minor are bound under mortal sin to have always one Minister General and by whom ought he to be elected?	200
<i>Question 2.</i> Whether or not the Provincials and Custodes, perceiving the incompetency of the Minister General, are obliged, under mortal sin, to depose him and to elect another?	204

	Page
CHAPTER IX.	
Of the Preachers.....	206
<i>Question 1.</i> Whether or not Preachers of the Order of Friars Minor can preach against the objection of the Bishop?	206
<i>Question 2.</i> Whether or not the Preachers of the Order of Minors can be examined and approved for preaching by the Minister General alone?	208
<i>Question 3.</i> In what manner ought the Friars Minor to preach?	210
CHAPTER X.	
Of the admonition and correction of the Friars.....	212
<i>Question 1.</i> Whether or not the Superiors of the Order are obliged under mortal sin by virtue of the Rule to visit, admonish, correct, etc., their subjects?	212
<i>Question 2.</i> Whether or not the Superiors of the Order can impose upon the Friars subject to them precepts obliging under mortal sin, except those which are contained in the Rule?	217
<i>Question 3.</i> Whether or not Superiors of the Order can interpret the precepts of the Rule and dispense from them?	222
<i>Question 4.</i> What is required in order that a Friar who is subject is bound to have recourse to the Ministers for the observance of the Rule?	227
<i>Question 5.</i> In what manner ought the Ministers to receive the Friars who have recourse to them for the observance of the Rule?	230
<i>Question 6.</i> Whether or not the Friars Minor are prohibited by the Rule from studying letters and are commanded to practice mental prayer?	231
CHAPTER XI.	
That the Friars must not enter the Convents of Nuns.....	236
<i>Question 1.</i> What is prohibited to the Friars Minor in the Rule by the words suspicious intercourse with women?	236
<i>Question 2.</i> Whether or not the Friars Minor are specially prohibited by the Rule from entering the Convents of Nuns and from having access to them?	240
<i>Question 3.</i> Whether or not all sponsorship is forbidden to the Friars Minor by this precept of the Rule?	246
CHAPTER XII.	
Of those going among the Saracens and other Infidels.....	248
<i>Question 1.</i> What fitness is required in a Friar Minor in order that he should be sent among infidels?	248
<i>Question 2.</i> Whether or not each and all of the Ministers are bound to ask for a Protector of the Order?	251

PREFACE TO THE LATIN EDITION.

Many expositions of the Rule of our holy Father St. Francis are in existence, but although they abound in instruction and are imbued with the Seraphic spirit, yet they are not all suitable for everybody. For some expositors are more diffuse than is requisite, they set forth and discourse upon many things which refer only remotely to the question; others draw up an ascetic treatise rather than a moral-canonical commentary, and there are some even who transgress the limits in which, among moral systems, the right path is confined.

P. Kilian Kazenberger, who lived in Germany during the last century, has, unless we are mistaken, avoided these errors. For in his *Compendiosa Expositione Literali* he has, in the first place, embraced in few words everything that is necessary to be known by all who profess the Rule of St. Francis. In the second place, he treats of what is *licit* and *illicit*, and rarely of what is *perfect*, unless it is necessary to do so. Lastly, being a disciple of Sporer and Elbel, who are foremost among moralists, he paves a safe way because he takes the middle course.

For this reason the Exposition of P. Kilian has heretofore been used in many Provinces as a text-book for novices as well as for confessors, and indeed with

great profit to the observance of the Rule. Now when things have been changed by the recent decree of the Holy See, it is once more published by order of the present Minister General, the Most Rev. P. Aloysius Lauer, in order that the other Provinces of the Order should have at hand a work in which novices may learn the duties which the Seraphic Patriarch has proposed for our observance, and also one in which priests, who are to hear the confessions of their brethren, may find a manual for examination.

It would be best if the masters of novices could explain the general Constitutions of the Order to the novices at the same time with the Rule, for the Constitutions are nothing else than an official explanation and an extension of the Rule. This method makes it easy for each chapter of the Rule and Constitutions to be explained during the time of the novitiate, so that at the end of the year of novitiate the twelve chapters of the Rule and Constitutions, which are the twelve foundations of our Society, should be entirely finished and be fixed in the minds of the young religious.

The prudent master in his lectures should make use of the history of the Order and of ascetic theology, but should always rightly distinguish what pertains to licitness and what to perfection, lest consciences might be harassed with difficulties. But, above all, it is certain that no one can rightly interpret the Rule, unless he is able to interpret the Holy Gospel of our Lord as far as it is possible to do so.

INTRODUCTION.

The Wise Man says: "If thou hast vowed anything to God, defer not to pay it; for an unfaithful and foolish promise displeaseth him; but whatever thou hast vowed, pay it. And it is much better not to vow, than after a vow not to perform the things promised" (*Eccle. V. 3-4*). Since then, we Friars Minor have vowed to observe the Rule of our Holy Father St. Francis *ad litteram*, we are also obliged to pay our vows to God, and are bound to obey our Rule *ad litteram*, lest our profession should displease God as an unfaithful and foolish promise. No one, however, is able to vow or observe a Rule which he does not understand. Therefore, in order that our Seraphic Rule may be better understood and observed, I have prepared this brief written exposition of the same for the use of the novices and professed friars of our Seraphic Order from the declarations of the Supreme Pontiffs Nicholas III. and Clement V., and from the expositions of approved Doctors. I have been induced to undertake the task not only on account of the will of my Superiors, but also by reason of what our P. Marchant has written in his introductory questions to our Rule, namely: "Let those take heed who either very rarely or never read the Rule or books treating of the Rule. Let those take heed who by mockery and abuse persecute as scrupulous those who observe the Rule. Let those take warning who teach theology and the academic sciences, and are ignorant and un-

taught concerning the necessary knowledge of their Rule. Let those take warning who are bound to teach others, because many little ones ask for bread and there is no one to break it for them. Let those mourn who, not wishing to understand how they should act, say to God: "Depart from us, we do not wish the knowledge of Thy ways."

Before, however, commencing the exposition of our Rule, I shall take up some preliminary questions.

QUESTION I.

Which Rule is to be observed by the Friars Minor ?

As is known, our Seraphic Father St. Francis instituted three Orders in the Catholic Church, namely, the *First Order*, that of the Friars Minor; the *Second Order*, that of the Clares or Poor Ladies, and the *Third Order* of Penance or of Penitents, as we sing in his office: "This one founded three Orders, the first he called Friars Minor, and the second was that of the Poor Ladies, but the third included Penitents of both sexes." For the first of his Orders, however, namely, that of the Friars Minor, St. Francis composed *two Rules*, as is evident from the history of his life and the annals of our Order. The first, which contained as many as twenty-three chapters, was written in the year 1210 and was approved orally *viva voce* by Pope Innocent III. The second, consisting of a compendium of twelve chapters only, which Christ Himself dictated on Mt. Palombo, was confirmed by Pope Honorius III. by a Bull in 1223, the eighth year of his Pontificate, and was the one he wished to be observed by the Friars Minor.

These things having been premised, I reply: The Friars Minor are bound to observe the Second Rule of our Holy Father St. Francis, consisting of twelve chapters only, and which Pope Honorius III. confirmed by a Bull. The reason is that the Friars Minor vow only to observe this one, since in their profession they say: "I vow and promise to Almighty God, to the Most

Blessed Virgin Mary, to Blessed Francis and all the Saints and to you, Father, to observe, all the time of my life, the Rule of the Friars Minor, approved by His Holiness Pope Honorius III., and to live in obedience without property and in chastity.” And this is the only Rule which is in use and force in the Church from the decrees of the Sovereign Pontiffs; it is treated of in making this Literal Exposition, and is commonly called the First Rule of St. Francis, namely, with respect to the Rule of St. Clare, which was given to the Second Order of Poor Ladies or Clares, and to the Third Rule given to the Third Order of Penance or of Tertiaries.

Under this First Rule of St. Francis three distinct Orders are now serving; namely, the Order of Friars Minor; next, the Order of Friars Minor Capuchins, and lastly, the Order of Friars Minor Conventuals, all of whom are called Friars Minor of the First Rule or First Order of our Holy Father St. Francis, with, however, this distinction that the Friars Minor and the Capuchins vow and observe the First Rule of our Holy Father St. Francis *ad litteram*, without relaxing privileges, whereas the Friars Minor Conventuals vow and observe it as relaxed by Pontifical privileges.

QUESTION II.

**Whether, or not, this Rule of the Friars Minor of
St. Francis is most perfect?**

I answer in the affirmative. The reason is both because St. Francis called it "the book of life, the hope of salvation, the pledge of glory, the marrow of the Gospel, the way of the Cross, a state of perfection, the key of Paradise and the seal of an eternal alliance," and also because Pope Nicholas III., speaking of this Rule, says: "This is before God and the Father religion clean and without spot, which, descending from the Father of Lights through His Son, handed down by the words and example of the Apostles and inspired through the Holy Spirit to Blessed Francis and his followers, contains, as it were, the testimony of the Trinity." And by Clement V. it is called the type of heavenly life. Moreover this Rule was dictated to our Holy Father St. Francis by our Lord, as is commonly attested by the first annalists of our Order, as may be seen in the works of P. Luke Wadding, O. F. M. The latter relates how St. Francis (taking with him Brother Leo and Brother Bonizo) was led by the Holy Spirit to Mt. Palombo or Raynerio near Rieti to compose this Rule; how Brother Elias made a commotion among the Ministers, because (as he said) St. Francis had made a Rule which could not be observed, and how they came together to the mountain, that through their human allegations the holy man

might revoke the work just begun. Indeed, the Holy Father, having complained to God of this commotion with a mind somewhat troubled, Christ appeared in a resplendent cloud and spoke thus: "Poor man, why shouldst thou be troubled as if this work were thine? etc. Were not all the precepts of the Rule presented by Me? Were not these pages written by Me? Thou wast only the weak instrument of the work and the pen of the writer. I knew what I would dictate; I knew what I wished to enjoin. I know what the frailty of man can endure, and what support I can and will give him. I require, moreover, that this Rule should be observed *ad litteram, ad litteram, ad litteram*, without gloss, without gloss, without gloss, etc."

This relation is confirmed in a revelation made by Christ to St. Bridget, which is recorded in the 7th Book of Revelations, chap. 20, where we read that Christ used these words: "The Rule of that Francis, which he began, was not dictated or composed by human intellect or prudence, but by Me according to My will; for every word which is written in it was inspired by My Spirit, and afterwards he made known and extended this Rule to others." Hence it is that our Seraphic Doctor St. Bonaventure, writing on the first chapter of our Rule, says that it is most perfect, because our Seraphic Rule contains in the highest degree the essential vows of religion, namely, the most exalted poverty in common as well as in individuals, which is confined to the natural right and the simple actual use necessary for the conservation of life; the widest and most profound obedience, which is restricted by no limits, but extends to all licit things which are not contrary to conscience and to the Rule we have promised; the most resplendent

chastity, which avoids not only defilement, but even the shadow or suspicion of defilement, as will be manifest in the course of the Exposition of the Rule. Lastly, because, in addition to the three essential vows of religion, no Rule of any other religious Order in the Church contains so many precepts obliging under mortal sin, as does the Rule of the Friars Minor of our Holy Father St. Francis, as will also be evident in the Exposition of the Rule. It is most perfect, therefore, because it contains the quintessence of the Gospel and of Evangelical and apostolic perfection, and because it entails in its observance greater difficulty, and as a consequence those who observe this our Seraphic Rule, ought to receive a greater merit and reward.

QUESTION III.

What does it mean to observe the Rule of the Friars
Minor *ad litteram*, or to live according
to the purity of the Rule?

As is known, it belongs to the Pope alone to approve, confirm and publish the Rules of all Orders and Religions, because he alone is the Vicar of Christ, the successor of Peter, the head of the whole Church, and when speaking *ex cathedra*, is infallible. Therefore it belongs to him alone to establish the way of perfection for others, and to approve and authentically explain the Rules of Religious Orders. For this reason our Holy Father St. Francis placed obedience to the Pope and to the Roman Church as the foundation of his Rule and Religion. Nevertheless, just as Doctors may set forth, explain and interpret the Holy Scriptures, so also may they explain and set forth our holy Rule, as St. Bonaventure, Hugo de Dina and many others have done, provided that they set forth simply and solely the sense of the words of the Rule, and the intention of its founder, and do not pervert it in any way.

It may be observed that only that may be called a true or *ad litteram* Exposition of the Rule, which so gives heed to the signification of the words and diction as not to recede from the intention of the giver and maker of the Rule, but rather to conform to it. The reason is, because, according to jurists, the intention of the legis-

lator is the spirit of the law, and "there is no doubt that he offends against the law who, embracing the words of the law, strives against the will of the law" (*l. non dubium, 5, C. de legibus*). This being so, the question arises whether or not Friars Minor, living according to the decrees of the Pontiffs (which were made regarding our Rule by Nicholas III. and Clement V. and which are contained in Canon Law) and of approved Doctors, may rest certain and secure that they observe their Rule *ad litteram* in its purity and according to the intention of our Holy Father St. Francis?

I reply that *Friars Minor observing their Rule according to the declarations of the Supreme Pontiffs Nicholas III. and Clement V., and the Doctors of the same mind as the aforesaid Pontiffs, observe the Rule ad litteram, in its purity, and according to the intention of our Holy Father St. Francis.* The reason is, 1st, because Innocent XI. thus decreed; 2nd, because the Rule is observed in its purity, *ad litteram*, and according to the intention of our Holy Father St. Francis, when it is followed according to the true sense intended by its institutor. But when the Rule is observed according to the declarations of the Sovereign Pontiffs and of the expositors holding the same opinions with them, it is observed according to the intention of our Holy Father St. Francis, because Nicholas III. and Clement V. aver in these declarations that they do not wish to explain the Rule otherwise than according to the pious intention of our Holy Father St. Francis. Therefore, Friars Minor living according to the declarations of the Sovereign Pontiffs and the Doctors of the same opinion, observe the Rule *ad litteram*, in its purity, and according to the intention of our Holy Father St. Francis.

You may say that Christ, the dictator of the first Rule, speaking from a cloud to the Ministers (as related in the annals of our Order), said He wished our Rule to be observed "*ad litteram, ad litteram, ad litteram,* without gloss, without gloss, without gloss." Our Holy Father St. Francis expressed the same wish in his testament. Therefore.

I reply that by the words *ad litteram, without gloss*, Christ did not wish to prohibit His Vicars on earth, the Sovereign Pontiffs, from making any declarations which should explain the real sense of the Rule, even as He did not prohibit them from making declarations concerning the Sacred Scriptures. Much less did St. Francis wish to lay down a law that the Sovereign Pontiffs and the Roman Catholic Church should not set forth and explain his Rule, since, in the first chapter of his Rule, he promises obedience and reverence to the Sovereign Pontiffs and to the Roman Church. But Christ and St. Francis, by the words *ad litteram, without gloss*, prohibited distorted comments and irrational expositions to be made on the Rule, contrary to its true sense and opposed to the real mind and intention of the maker and institutor of the Rule, and lest the Friars in the observance of the Rule should follow such comments and expositions contrary to the purity of the Rule.

QUESTION IV.

Whether or not Friars Minor vowed to observe their Rule *ad litteram* are held to be perfect?

I reply: that Friars Minor vowed to observe their Rule *ad litteram* are not held to be perfect but are bound under mortal sin to aim at perfection. Such is the most common opinion of Doctors. The reason is 1st, because the Religious state is not a state of perfection already acquired but to be acquired; 2ndly, because Friars Minor vowed to observe their Rule *ad litteram* do not promise that they will be *actually* perfect but that they will aim at perfection by observing the three essential vows and the precepts contained in their Rule. But now, as is evident from the exposition of the Rule, the vows and precepts contained in the Rule oblige under mortal sin. Therefore the Friars Minor are held under mortal sin to aim at religious perfection, that is, to the observance of their Rule and to the vows and precepts which it contains, as the Council of Trent plainly indicates. This obligation to aim at religious perfection is not, however, according to the *most common opinion of theologians*, distinct from the obligation to observe the Rule and the vows and precepts it contains. Just as among Christians, the obligation to aim at Christian perfection is not distinct from the obligation of keeping the commandments of God and the Church, but is included

in it, as even reason itself would suggest. For otherwise, as often as a Friar Minor should transgress any vow or precept of his Rule he would always commit two sins, one certainly against the vow or precept of the Rule, the other against the precept or obligation of aiming at perfection, which cannot be asserted.

From this it follows that a Friar Minor is not held to be actually perfect, but is held only to strive that he may be perfect; and although he is not held to always actually aim at this perfection by an actually continuous will, because this is morally impossible, nevertheless he is held to have at least the habitual intention and will to aim at religious perfection and the purpose of observing his Rule and the vows and precepts it contains, and he cannot, as is evident, ever change this intention to the contrary.

QUESTION V.

To how many and to which things is a Friar Minor held under mortal sin from the observance of his Rule?

It is to be noted that a Friar Minor is not bound under sin to observe everything which is contained in the Rule, because there are contained in the Rule some things which are of precept and prohibition, others which are counselled and others which are permitted, and conceded. Hence a Friar Minor transgressing in those things which are of precept or prohibition in the Rule certainly sins, but by transgressing in those things which in the Rule are counselled, permitted or allowed by indult, he does not sin, because, as is evident, counsel, permission and indult do not oblige under sin.

This being noted, I reply that a Friar Minor is bound by his Rule under mortal sin to observe in addition to the three essential vows, namely, poverty, chastity and obedience, twenty-five precepts, namely, seven formal precepts, two prohibiting, four having the force of precepts, and twelve having the nature of precepts. These are all clear from the declarations of the Sovereign Pontiffs and from the examination and exposition of the Rule. Although some multiply the number of obligatory precepts in the Rule to twenty-eight and others to thirty-nine or forty, the least number to which they can be reduced is twenty-five. Thus in the one precept, chap. 10, that Friars shall obey their ministers in all

things which are not contrary to their conscience and the Rule, two are included which in chaps. 1 and 8 refer to the obedience commanded to the successor of St. Francis or the General. In like manner all the fasts of the Rule which are divided by others into three are comprehended in one precept. Again: those things which pertain to the form of the habit and to the manner of reception and profession and which others divide into several precepts, are here comprehended in one, and so in other cases. In order that all this may be made more clear we enumerate all the precepts.

VII. FORMAL PRECEPTS.

1. That the whole Order is bound to exhibit obedience and reverence to His Holiness the Pope and the Roman Church. *Chap. 1 of the Rule.*
2. That the Friars shall in no manner receive coin or money. *Chap. 4 of the Rule.*
3. That the Friars shall obey their ministers in all things which they have promised God to observe. *Chap. 10 of the Rule.*
4. That the Friars shall not have suspicious communications with women. *Chap. 11 of the Rule.*
5. That they shall not enter the monasteries of nuns. *Chap. 11 of the Rule.*
6. That they shall not become sponsors of men or women. *Chap. 11 of the Rule.*
7. That the ministers shall ask for one of the Cardinals of the Holy Roman Church to be Governor, Protector and Corrector of this Fraternity. *Chap. 12 of the Rule.*

II. PROHIBITING PRECEPTS.

1. That it will be by no means lawful for the Friars to leave this Order. *Chap. 2 of the Rule.*
2. That the Friars shall appropriate nothing for themselves. *Chap. 3 of the Rule.*

IV. HAVING THE FORCE OF PRECEPTS AND ALSO BY THE PONTIFICAL DECREES BINDING UNDER MORTAL SIN.

1. That the Friars are bound to have recourse to the Provincial ministers for reserved cases. *Chap. 7 of the Rule.*
2. That the Friars shall have one of the Friars of this Order as Minister General. *Chap. 8 of the Rule.*
3. That the Ministers and Custodes are bound to assemble together in General Chapter for the election of a successor to the Minister General. *Chap. 8 of the Rule.*
4. That if at any time it should seem to all the Provincial Ministers and Custodes that the aforesaid Minister General is not competent, they should elect another. *Chap. 8 of the Rule.*

XII. HAVING THE NATURE OF PRECEPTS AND BY THE DECLARATION OF CLEMENT V. OBLIGING UNDER MORTAL SIN.

1. That the Friars shall have one tunic with a capuche and those who wish may have another without a capuche. *Chap. 2 of the Rule.*
2. That only those who are compelled by necessity may wear shoes. *Chap. 2 of the Rule.*
3. That they shall be clothed in poor garments. *Chap. 2 of the Rule.*

4. That the clerics shall recite the Divine Office according to the order of the Holy Roman Church and that laics shall say the Lord's Prayer. *Chap. 3 of the Rule.*
5. That the Friars shall fast from the feast of All Saints to the Nativity of Our Lord, from Ash Wednesday to Easter Sunday, and on Fridays throughout the year. *Chap. 3 of the Rule.*
6. That they shall not ride unless compelled by manifest necessity or infirmity. *Chap. 3 of the Rule.*
7. That the Ministers and Custodes shall have a solicitous care for the necessities of the sick and for the clothing of the other Friars. *Chap. 4 of the Rule.*
8. That the Friars shall serve their sick brethren. *Chap. 6 of the Rule.*
9. That the Friars shall not preach in the Diocese of any Bishop when it has been prohibited to them by him. *Chap. 9 of the Rule.*
10. That none of the Friars dare preach to the people unless he has been approved of by the Minister General of this Fraternity. *Chap. 9 of the Rule.*
11. That wherever there are Friars who know and feel that they cannot observe the Rule spiritually they ought to and can have recourse to their Ministers. *Chap. 10 of the Rule.*
12. All those things placed in the Rule pertaining to the form of the habit of the novices and also of the professed and also to the manner of reception and profession in which are included many conditions obliging under mortal sin. *Chap. 2 of the Rule.*

From this it follows (1) that the Friars Minor may observe the Rule of our Holy Father St. Francis *ad litteram* because they observe the three essential vows

and the aforesaid twenty-five precepts contained in the same, and because they cannot admit any Pontifical privileges relaxing the Rule or any dispensation or custom contrary to it, as has been declared by Urban VIII. and Innocent XI.

(It follows (2) that although there are in our Rule twenty-five precepts binding under mortal sin these (with the exception of the three vows) do not so fall under the vows that, for example, a Friar Minor not fasting on a Friday falling in Ember week would commit a twofold sin, one against the precept of the Church and another against the vow. This is the opinion of Rodriguez, Marchant and others quoted, and concurred in by Kerckhove. The reason is that a Friar Minor promising in his profession to observe the Rule has no other intention than to subject himself to the Rule and its laws under the same obligation as that which the Rule intends its precepts to have. But the Rule is not considered to propose its precepts under the obligation of vows. Therefore. The minor is proved from what Clement V. declared in his decree *Exivi*, when, after he has declared that the Friars are obliged not only to the three bare vows but also to all those things which the Rule itself contains modifying the three vows, he explains many precepts of grave obligation and distinguishes the vows from the precepts contained in the Rule. Hence in order that the Rule be followed *ad litteram*, it is necessary only that the precepts should be observed as precepts and the vows as vows by those who have made their profession.)

Nor can it be objected that a Friar Minor in professing says: "I vow to observe the Rule of the Friars Minor," for according to St. Thomas, he who vows the

Rule does not vow to observe all the things that are in the Rule (that is under the obligation of vows) but vows a regular life consisting essentially in the three vows and by reason of this regular life obliges himself to observe all the precepts, which are annexed to this regular life or which are contained in the Rule; and this he does under the same obligation by which they are imposed in the Rule, namely, under the obligation of precepts and not of vows.

It follows (3) that the Friars Minor are not bound under sin to the testament of our Holy Father St. Francis except in those things which it contains in common with the Rule. Nicholas III. so declared and adds, as a reason, that St. Francis could not bind without the consent of the Friars and especially of the ministers, all of whom were concerned, nor did he oblige his successor in any way whatever, since an equal has no authority over an equal.

I have said *under sin* for out of reverence for the Seraphic Father it behooves his sons to observe it to the best of their ability. In like manner, the Friars Minor are not bound under sin to the declarations of the Supreme Pontiffs, except to those in which the precepts of God or the Rule are referred to, nor otherwise than the way they are obliged to the aforesaid vows and precepts by virtue of their profession, because the Pontiffs by their decrees wish only to explain the Rule and not indeed to impose new precepts, and although they even wished to impose new precepts on the Friars these were revoked again by Sixtus IV. when he revoked and nullified all precepts distinct from the obligations of the Rule.

QUESTION VI.

Whether or not the observance of the Rule *ad litteram* is
only one and undivided?

The scope of this question is to determine whether or not within the essential observance of the same Rule some can observe the Rule better, others less well, some more strictly, others less strictly, but so that all may be in no danger of sin and may be regarded as true observers of the Rule *ad litteram*.

Now to this question I reply that with regard to the same essential observance of the Rule some may be said to observe it *ad litteram* more perfectly and more strictly and others less perfectly and less strictly, yet so that all are beyond danger of sin or transgression. The reason is clear since the observance of the precepts of God and other vows does not consist in the indivisible but has its grades, so also the fulfilment of vows and the observance of precepts of every Rule has some latitude within which some can observe more strictly, others less strictly the Rule, the vows and precepts it contains, all, however, without sin or transgression.

From this follows that Friars who are scrupulous ought ever to refrain from rash judgments, for sometimes what suffices for or suits one Friar does not suffice for or please all the Friars and the manner of observance of one, although it does not reach an eminent

degree of perfection, withal does not exceed the limit of the precepts so as to sin against them.

You may say: St. Francis wishes the Rule to be observed *ad litteram*: but *ad litteram* can only be taken in one sense; therefore it follows that there is only one way of observing the Rule.

I reply with Corduba, Marchant and others in their Expositions of the Rule that the words *ad litteram* ought not to be taken in a “Jewish” sense, that is, according to the external appearance of the words but rather according to the litteral sense principally intended. For, as St. Hilary says, “the meaning of the things said is to be sought in the cause of their being said since the matter is not to be subservient to the words but the words to the matter.” Whoever, therefore, does not exceed the principal intention signified by the letter of the Rule, observes the Rule *ad litteram*, though he may not attain to the most perfect manner of observing it.

QUESTION VII.

Whether or not ignorance of the obligations of the Rule vowed excuses from their observance ?

It is to be noted that everyone is obliged to know those things which he has bound himself by vow to observe, for no one can observe and fulfil those things of which he is ignorant, for an end efficaciously intended necessitates the employment of the means without which that end cannot be attained. If, therefore, no Christian is to be excused because he is culpably ignorant of those things which necessarily pertain to the laws and faith of Catholics, certainly a Religious is not to be excused if he is culpably ignorant of the obligatory precepts of the Rule. Accordingly every Friar Minor is bound to strive that he may know the obligatory vows and precepts of his Rule, and that this might be done Innocent XI. decreed as follows : "In order that on entering religion every one may be fully informed concerning the obligations which they wish to assume, we command, that no one shall be received to the habit in the said Order (namely the Friars Minor,) unless he has first been fully informed concerning the foregoing precepts of the Rule obliging in conscience and having previously learned these, wishes to go on probation; nor is anyone to be admitted to regular profession unless he be first examined concerning the meaning of the Rule and its precepts, according to what has been said; and then, immediately before profession, in the presence of the

whole community, protestation shall be made to him that by his profession, he obliges himself to the observance of the Rule with all its precepts then to be enumerated and expressed; and this protestation he approves and, upon it, makes his profession."

Now to the question I reply, that no Friar Minor is excused from the obligations of the Rule on account of any ignorance of them. The reason is that since he who wishes to vow the state of a Friar Minor, is supposed also to wish to vow the obligation of the state and Rule, even if he does not think of or has not been instructed in them in particular, just as he who wants to be a Christian by this becomes subject to the laws and obligations of Christians.

It follows that invincible and inculpable ignorance (which cannot be presumed in a Friar Minor, since he is held according to his ability to know the obligations of his Rule) excuses from sin; vincible and culpable ignorance, however, in a Friar Minor does not excuse him. The reason is evident since a Friar Minor can and is held according to his state and capability to know the obligations of his Rule in the same manner that a Christian is held to know the necessary articles of Faith and the commandments of God. Therefore, if he does not know them, he sins according to the quality of the matter and negligence, so that, if the negligence is grave in regard to something grave in the Rule, he sins mortally; if, however, the negligence is small or relates to a small matter he sins venially. Thus Hugo de Dina aptly says: "Ignorance does not excuse those who have professed the Rule: if any one does not know he is bound to inquire diligently: he who does not walk uprightly walks foolishly. Each one has to provide for

his own condition.” Nevertheless Prelates, Provincials and Priests are obliged to know more than a simple lay brother or young cleric, although these also are all bound to know those ordinary things which are prescribed in the Rule under mortal sin and in the exercise of which they are occupied. Superiors and subjects who either very rarely or never read the declarations on the Rule or books treating of the Rule ought to take note of this fact. Nor will it profit such as are ignorant to use this common excuse “*I live like the rest,*” because, in their profession they did not vow “to live like the rest,” but have vowed to Almighty God, to observe the Rule of the Friars Minor; which if they do not do they will be damned, even though they have lived ‘like the rest’ —who either through ignorance, negligence or perversity have not observed it.)

QUESTION VIII.

Whether or not a Friar Minor of Simple Profession is held to the observance of the Rule?

It is to be noted that the greatest care, solicitude and diligence should be employed in proving in the proper manner, the spirit of those who ask to make solemn vows to God, so that no one may be admitted who is defiled by the contagion of the world; for, just as a diseased sheep infects the fold of Christ, even so, he who has no real vocation may both regret having entered Religion and cause grave trouble to his companions, as well as disorder in discipline and ruin to religious observance. For this reason Pope Pius IX. in a decree, touching upon religious orders of men in which solemn vows are made, ordered (1) that novices, at the completion of their term of probation, should take simple vows only; (2) that the solemn profession should, under pain of nullity, be put off for three full years, reckoned from the day on which the simple profession was made. Superiors General and Provincials may, however, for just and reasonable causes, postpone the solemn profession still longer, but not beyond the age of twenty-five full years.

I reply to the question, I answer that a Friar Minor, simply professed, is held to the observance of the Rule, an exception being made with regard to the vow of poverty, because he retains radical dominion

over his goods, and also with regard to the obligation of reciting the Divine Office; because, although he is obliged to be present at choir like the solemnly professed, he is not, however, held to the private recitation of the Divine Office.

I shall now begin the brief literal exposition of the Holy Rule of our Seraphic Father St. Francis. Since the Rule is contained in the Bull of Pope Honorius III., the entire Bull confirming it is appended:

B U L L

OF HIS HOLINESS POPE HONORIUS III. ON THE RULE OF THE FRIARS MINOR.

Honorius, Bishop, Servant of the servants of God, to the beloved sons, Friar Francis and the other Friars of the Order of Friars Minor, health and Apostolic benediction. The Apostolic See is wont to comply with the pious wishes and to bestow a benevolent regard on the laudable desires of petitioners. Wherefore, beloved children in the Lord, moved by your pious prayers, We, in virtue of the Apostolic authority, confirm and by these letters present sanction with our protection, the Rule of your Order, approved by Pope Innocent, our predecessor of happy memory. Which Rule is as follows:

CHAPTER I.

IN THE NAME OF THE LORD. HERE BEGINS THE LIFE
OF THE FRIARS MINOR.

THE RULE AND LIFE OF THE FRIARS MINOR IS THIS,
NAMELY: TO OBSERVE THE HOLY GOSPEL
OF OUR LORD JESUS CHRIST.

QUESTION I.

Whether or not the Friars Minor are bound under mortal
sin, by virtue of their vows and Rule, to all
that is contained in the Gospel?

It may be observed that those only can be properly called Friars Minor who vow and observe the Rule of the Friars Minor in its purity. For just as he only is a true Christian, who, being baptized, professes the Christian faith and leads a life conformable to that faith, even so he alone may be said to be a true Friar Minor who observes the Rule and the life of the Friars Minor as he has professed it. He, however, who does not observe it is a Friar Minor in name, by habit and profession, but is not one in fact, in deed, or in truth. Our Holy Father wished that his sons should be called Friars or brothers principally because Christ also called

His apostles Brothers: "Go to my brethren and say to them I ascend to my Father and to your Father" (John XX, 17) so that as Brothers they might love one another according to the command of Christ: "This is my commandment, that you love one another as I have loved you" (John, XV, 12). Besides St. Francis wished them to be called Minors, according to these words of Christ: "As long as you did it to one of these my least brethren, you did it to me. As long as you did it not to one of these least, neither did you do it to me" (Mark XXV, 40, 45). According to Pisanus, St. Francis said that the words of Christ were to be understood as applying to the Friars Minor. By this also, according to St. Bonaventure, St. Francis wished to indicate that the Friars should not wish to be greater, but rather be less than all and should humble themselves in all things according to the words of Christ: "He that is greater among you let him become as the younger" (Luke XXII, 26). Nor ought the Friars to be Minors in name only, but also in deed and truth; for humility is so annexed to the state of a Friar Minor that, if he is not humble, he is not a Friar Minor — whose duty it is to embrace humility, to flee from loftiness and to prefer himself to no one. Lastly our Holy Father adds: "The Rule and life of the Friars Minor is this namely to observe the Holy Gospel of our Lord Jesus Christ," for he wished to follow Christ in all things; hence also he wished himself to observe the doctrine of Christ contained in the Gospel and wished the same to be observed by his Friars, since it contained all perfection and sanctity.

Now, however, the question arises: whether or not the Friars Minor are, in virtue of their vows and Rule,

held under mortal sin to observe everything contained in the Gospel?

I reply that the Friars Minor are not bound under mortal sin by their vows and Rule to observe all that is contained in the Gospel, but only to those things which are contained in the Rule, as vows and precepts, as specified in our introduction to the fifth question. Nicholas III. and Clement V. so declared and this is the opinion of all expositors. The reason is, that if our Holy Father St. Francis had wished to oblige his Friars under sin to any moret hings contained in the Gospel, he would have given more precepts in the Rule. But this he did not do. Therefore.

From this it follows that the Friars Minor by the profession of their Rule are obliged only to the observance of those Evangelical counsels which are prescribed in the Rule as precepts or as having the force of precepts, but for good and fair reasons, it behooves the Friars to attend to the observance of the other things which are said by way of admonition, exhortation, explanation and instruction or whatever other manner, so much the more, because, having become imitators of such a Father, they have chosen to follow more closely in the footsteps of Christ. The Rule continues as follows:

LIVING IN OBEDIENCE.

QUESTION II.

To what is a Friar Minor held by his vow of obedience?

It is to be noted that obedience is a virtue which makes man prompt to fulfil the command of a superior. For this reason a Religious by his vow of obedience is obliged to all those things which the superior commands him, according to the Rule and Constitutions of his Order, because a Religious obliges himself to all these things by his vow of obedience; and this obligation is grave in its nature, although the superior is not ordinarily held to wish to oblige gravely by commanding, unless he manifests his will by the addition of the term of obedience or of grave censure or in some other way. In doubt, however, as to whether a subject in any case is bound to obey, in a particular case he is obliged to obedience, not only because the superior has a manifest right to command, of which he is not deprived by the doubt of his subject, but also, because confusion and destruction of the community and of regular discipline would follow, if on the pretext of doubt, a subject would not obey his superior.

I reply to the question that a Friar Minor, by his vow of obedience, is bound to obey his superiors, not only in those things expressly commanded in the Rule, but also in all others without exception, unless anything is prescribed which is contrary to God and to the Rule, as is evident from chapt. 10 of the Rule where it is said: "I firmly command them to obey their Ministers in all things which they have promised the Lord to observe and which are not against their own soul and our Rule." The Rule continues as follows:

WITHOUT PROPERTY.

QUESTION III.

To what is a Friar Minor held by his vow of poverty?

It is to be noted that by making a solemn vow of poverty a Religious renounces dominion, proprietorship, usufruct, right to the use of temporal and external things, that is, the goods of fortune and even their actual use independent of the will and the permission of his Superior, and he is content with their sole, simple, actual use dependent on the reasonable will or permission of the Superior, and indeed with the sole, simple, actual use in moderation and poverty, namely without superfluity, curiosity or luxury in the things he uses. For the Council of Trent decrees as follows: "The Superiors shall allow the use of movables in such manner as that the furniture (of the Religious) shall be suitable to the state of poverty which they have professed; and there shall be nothing therein superfluous, but at the same time nothing shall be refused which is necessary for them."

A solemnly professed Religious becomes incapable, by the authority of the Church, of holding dominion over or validly disposing of things, but the Holy See declared on December 1, 1820, and July 31, 1878, that for the kingdoms of Belgium and the Netherlands, as existing today, Religious of both sexes, solemnly professed, may validly and licitly acquire, retain and administer property and dispose of it for pious and honest purposes, provided that they do this with the required dependence upon their legitimate superiors.

By a simple vow of poverty, however, a Religious is not deprived of radical dominion or of the capacity for possessing and using, but he is deprived of the right of such use without the consent of the Prelates. Hence it is prescribed that those about to be professed in our Order, still retaining radical dominion before the profession of simple vows, shall cede such administration, usufruct and use for the time in which they remain in the state of simple profession, to whomsoever they please, but not to the Order.

I reply that a Friar Minor, by his vow of poverty, is held: 1st, to use things as if they were not his, because he has neither a right to the things he uses nor a right to the use of them, but only the actual use; 2nd, to use things by the free will of the owner conceding such use and with the free and reasonable consent of his Superior, either explicit or implicit, or, reasonably presumed, if the Superior cannot be conveniently reached; 3rd, to use things licitly and in moderation, namely, in accordance with the manner prescribed in the Rule, that is, without superfluity, curiosity and luxury.

From the foregoing it follows that a Friar Minor sins against his vow of poverty: 1st, if he uses things as though they were his own, or without permission of the owner; 2nd, if, without permission of his Superior, he receives, keeps, hides, consumes, scatters, gives away, changes, etc. anything, even though if he does this with the permission of the owner of these things; 3rd, if, through negligence or fault, he permits things allowed him for his use to perish or loses, destroys or uselessly consumes or expends them, etc., because to destroy or lose a thing at pleasure is an act of proprietorship of which a Friar Minor is not capable; 4th, if by fear,

cunning, fraud or importunate entreaties he extorts from his Superior permission to use anything; because he uses such a thing without the reasonable and free consent of the Superior; 5th, if he is extravagant in the use of things conceded to him by the Superior; 6th, if he is careless concerning things committed to his charge by the Superior, or administers them lavishly or does not distribute them among the Friars or strangers according to the will of the Superior; 7th, if he hides the key, lest the Superior should take anything, or if he murmurs, complains, etc., should anything really be taken.

In order that a Friar Minor sin mortally or venially against his vow of poverty the same quantity is required in things as is required to constitute a mortal or venial sin in theft. Wherefore, repeated acceptances, gifts or the consumption of things against the vow of poverty, even though small and minute, gradually grow into grave matter and mortal sin as in small thefts, for when the aforesaid repeated acceptances are reasonably against the will of the owner or administrator of the thing, then these likewise become thefts. If, however, they are not in the nature of a theft but only of a sacrilege against the vow of poverty, they would not then coalesce so as to form grave matter and become mortal sins. The reason is because in such a case they are not thefts but merely sins of sacrilege only against the vow of poverty, and as venial sins of sacrilege in other matters do not grow into mortal sin, neither do they do so here—except, as Kerkhove notes, where there be the intention, by repeated small acceptances etc. of accumulating gradually a grave amount, or, even where there is no such intention, provided that grave matter,

accumulated gradually by little acceptances, be retained. The reason for these exceptions is that, in the first case, the Religious resolves to obtain grave matter gradually without the permission of the Superior, which is a mortal sin; in the second case, he retains grave matter without that permission, and that is likewise a mortal sin.

The Rule continues as follows:

AND IN CHASTITY.

QUESTION IV.

To what is a Friar Minor held by his vow of chastity?

It is to be noted that a Religious by a vow of chastity renounces all unchaste thoughts, pleasures, actions etc., besides those which are otherwise licit in the married state. Therefore, chastity which, before a vow is made, pertains only to the virtue of temperance, belongs after making a vow, to the virtue of religion also and thus a violation of chastity by a Religious has a twofold specific malice, namely, one of lust against chastity, and the other of sacrilege against the vow which obliges by virtue of religion. A Religious who has pronounced a solemn vow of chastity would contract matrimony not only illicitly but also invalidly.

To the question, I reply, that a Friar Minor, by his vow of chastity, is obliged to abstain from all unchaste pleasures, both internal and external, of whatsoever kind they may be, such as impure thoughts, morose delectations, desires or consent as well as external acts against chastity, such as may be committed by looking at, talking to or touching etc. other persons of either sex or himself. The reason is that a person taking such a vow obliges himself to observe chastity according to the acceptation of the word *chastity* received by all in the Church. But such acceptation excludes all

acts contained in the sixth and ninth commandments of the Decalogue and prohibited by them. Therefore.

After the three essential vows, namely, obedience, poverty and chastity, which a Friar Minor in his profession explicitly promises and vows to God, the Rule continues :

“FRIAR FRANCIS PROMISES OBEDIENCE AND REVERENCE TO THE LORD POPE HONORIUS, AND TO HIS SUCCESSORS CANONICALLY ELECTED, AND TO THE ROMAN CHURCH.”

QUESTION V.

Whether or not the Friars Minor are held by a special precept to obey the Roman Pontiff and the Roman Church above other Religious and Christians?

It is to be noted that all Christians are bound to obey the Supreme Pontiff since he is the Vicar of Christ, the visible head of the Church, the supreme Pastor of all the Faithful, indeed the Pastor of Pastors. In addition to this, all Religious are also bound by the common vow of obedience to obey the Sovereign Pontiff in those things which pertain to their Order and Religion because the Supreme Pontiff is the approver and supreme general of all Orders and Religions.

To the question, I reply, that besides the common obligation of all Christians and besides the common vow of Religious, the Friars Minor are bound by a special precept of their Rule to obey the Supreme Pontiff, canonically elected, or the Roman Church in the event of the See of Rome being vacant, so that a Friar Minor disobeying the Supreme Pontiff in a grave matter sins mortally under three heads: 1st, against the common obligation of all Christians; 2nd, against the common obligation of all Religious; 3rd, against the special promise made to the Supreme Pontiff by our Seraphic Father St. Francis, as head and founder of the whole Order, and in the name of all the Friars past, present and future, by these words of the Rule: "Friar Francis

promises obedience and reverence to the Lord Pope Honorius etc.” It was so intimated by Clement V. in the preface to his declarations and is so taught by many expositors. Some, however, say that this special precept obliges the Ministers General only.

The Rule continues :

“AND THE OTHER FRIARS ARE BOUND TO OBEY
FRIAR FRANCIS AND HIS SUCCESSORS.”

QUESTION VI.

**Who is the successor of our Holy Father St. Francis
whom all the Friars are bound to obey ?**

It is to be noted that by this text of the Rule all the Friars Minor are commanded under mortal sin to obey our Holy Father St. Francis, namely, while he still filled the office of Minister General during life, and after his death to obey his successor in the office of General. Now, it is asked, who is the true successor of St. Francis in the office of General ?

To this, I answer that the true successor of our Holy Father St. Francis in the office of Minister General is simply and solely the Minister General who governs the Friars Minor. The reason is (1) because he descends by a continuous and uninterrupted series from our Holy Father St. Francis, and the true and genuine Friars of the Order of our Holy Father St. Francis and the observers of his Rule always have been (and, by the grace of God, always will be) subject to him without any interruption or division from the time the Rule was issued by St. Francis down to the present time. Leo X. so declared. (2) Because he alone is called Minister General of the whole Order of St. Francis according to the Bull of Leo X. of 1517 in which year also the ancient seal of the whole Order was assigned to him as the legitimate successor of St. Francis. His right to this prerogative was challenged in 1625 and disputed for

nearly six years afterwards, until finally, the question having been hotly discussed before the full Congregation of Rites, the S. Cong. replied that the Minister General of the Observants had legitimately used and could use the title and seal with the inscription of Minister General of the whole Order of Friars Minor. It was so declared March 22, 1631, and the observance of this decree was imposed in perpetuity and the contestants silenced April 25, 1631. Therefore, all Friars Minor observing the Rule *ad litteram*, (with the exception of the Capuchins, who are exempt by Apostolic indult), are bound by this precept of the Rule to obey the Minister General of the whole Order as the true successor of St. Francis.

From the foregoing exposition of chapter I. of the Rule it is clear that this first chapter contains the three vows of religion, namely, of poverty, chastity and obedience and two precepts obliging under mortal sin. The first is that the Friars Minor are obliged by special precept to obey the Supreme Pontiff and the Roman Church; the second is that all the Friars must obey the Minister General.

The Rule continues:

CHAPTER II.

OF THOSE WHO DESIRE TO EMBRACE THIS LIFE, AND
HOW THEY ARE TO BE RECEIVED.

All those things which are placed in this chapter pertaining to the form of the habit both of the novices and of the professed and of the manner of reception and profession are to be observed by the Friars as obligatory under mortal sin. Clement V. so declared.

The second chapter of the Rule begins :

"IF ANYONE WISHES TO EMBRACE THIS LIFE AND COMES TO OUR FRIARS, LET THEM SEND HIM TO THEIR PROVINCIAL MINISTER, TO WHOM ALONE AND TO NO OTHERS IS PERMISSION GRANTED TO RECEIVE FRIARS. AND LET THE MINISTER EXAMINE HIM CAREFULLY CONCERNING THE CATHOLIC FAITH AND THE SACRAMENTS OF THE CHURCH."

QUESTION I.

Concerning the reception of novices to the Order of Friars Minor.

It will be noted that our Holy Father St. Francis having in chap. I. of his Rule founded his Religion on three most firm foundations, namely, (1) upon the Holy Gospel of Our Lord Jesus Christ and upon His evangelical counsels; (2) upon the Roman Pontiff, the Vicar of Christ on earth and the Holy Roman Church, and (3) upon obedience firmly maintained by all subjects to Superiors, begins in chap. II. of his Rule to provide concerning the subjects or Religious and the qualifications of the Friars. Wherefore he says "if anyone wishes to embrace this life," that is, if any one impelled not by force or fear, by artifice or fraud, but of his own free will, wishes to enter my Order, and "comes to our Friars," manifesting to them his good will, "let them send him to their Provincial Ministers;" hence the Friars are bound not to impede, prevent or detain any such from entering our Order, provided they are fit, because if this were done through hate or carnal love or without sufficient cause, it would be a mortal sin against the charity due to our neighbor. The Friars are rather bound to bring worthy subjects personally to their Provincials, if they can conveniently do so, or else, to send them with introductory letters, for they cannot of them-

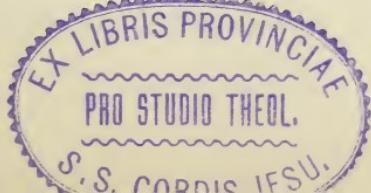
selves receive them, since the reception of novices to the Order belongs solely to the Provincials, as will presently be said.

From the text of the Rule above cited three questions arise. The first is, whether or not the Friars are bound to send to their Provincials all those who ask to be received into the Order, even unworthy postulants? The second is, whether or not the Provincials have the power of receiving postulants into the Order? The third is, whether or not the Ministers are bound to examine postulants for the Order concerning the Catholic faith and the Sacraments of the Church?

I reply that the Friars are not bound to send to the Provincial such postulants as are evidently unsuitable for the Order or such as have certain impediments by reason of which they could not be received. The reason is that where the end ceases, the precept of working for the end also ceases. But the end on account of which postulants ought to be sent, is that they may be received. Therefore, if it is certain that postulants, asking to be received into the Order, will not be admitted on account of incapacity or of certain impediments, the reason of sending them ceases, because it is useless to send them. This is clearly indicated by Nicholas III. when he says: "Not all indifferently are to be admitted into the Order, but only those who by knowledge, worthiness or other qualifications can be useful to the Order or who can benefit themselves by a meritorious life and others by their example." If, however, the Friars should doubt concerning the worth of any postulant for the Order, they are bound to send him to the Provincial and to intimate to the latter the cause of their doubt, because it belongs to the Provincial alone to judge whether or not anyone is fit for the Order.

To the second question, I reply, that by virtue of the Rule, the Provincials have ordinary power to receive novices or persons coming to the Order. This is clear from the express words of the Rule "to whom (that is the Provincial Ministers) alone and to none others, the faculty of receiving Friars is granted"—that is each one for his own Province. But this does not exclude the Minister General who can receive novices for the whole Order, because the Minister General holds the power of all the Provincials. And since the Provincials have the ordinary power of receiving novices for their own Provinces they can intrust this power, inasmuch as it is derived from the Rule, to others. This power of the Ministers may, however, be limited by the Minister General as Nicholas III. expressly declared (in his declaration on our Rule Art. 10) in these words: "We affirm by these present statutes that it is lawful not only for the General but also for the Provincial Ministers to receive among the Friars persons wishing to escape from the world. This faculty of the Provincial Ministers may, however, be limited by the Minister General if he deem it expedient." And in fact this power of the Ministers in so far as it relates to Italy and the adjacent islands has been limited by a decree of Pius IX.

But after the Provincials have themselves accepted postulants for the Order and sent them to the convents where the novitiates are located, they may delegate the Guardians or other priests and give them the power, *praemissis praemittendis* to invest such candidates with the holy habit and after the completion of the year of novitiate, to admit them to holy profession as is evinced by the general practice. But the question is: If the Provincials commission and delegate to any



Father Guardian the power of investing any candidates with our holy habit or of admitting any novices to holy profession at the completion of their year of novitiate and such Guardian should not invest or profess them but should provide that his Vicar should invest the candidates and profess the novices, is such a reception or profession valid? To this question I reply in the negative with Rodriguez, Marchant and Kerkhove. The reason is that the Provincials have the *ordinary power* of investing candidates, and of admitting novices to profession, but not the Guardians; therefore the Guardians have only *delegated power* of investing candidates and receiving novices to profession. But having a delegated power only they cannot subdelegate it according to the rule of law by which a delegate cannot subdelegate unless the one delegating has so provided. Therefore, a Guardian cannot subdelegate to his Vicar or to another the power of investing candidates or of receiving novices to profession (*unless the Minister Provincial has expressly declared so*) and consequently such an investiture or profession would be invalid.

To the third question, I reply that although the Provincials are bound to examine novices concerning the Catholic faith and the Sacraments of the Church and the other requisite conditions, nevertheless, when no doubt exists that the candidates are well instructed in the Catholic Faith and have all the conditions requisite for entering the Order, then the Provincials are not bound to examine them. St. Bonaventure so declared regarding this text of the Rule. The reason is that an examination is made to investigate something unknown. Therefore, when the thing is evident, the examination would be instituted in vain, for when the end of the precept ceases, the precept itself is also understood to cease.

The Rule continues as follows:

“AND IF HE BELIEVE ALL THESE THINGS AND WILL FAITHFULLY CONFESS AND STEADFASTLY OBSERVE THEM TO THE END, AND MOREOVER, IF HE HAVE NO WIFE, OR IF, HAVING ONE, SHE HAS ALREADY ENTERED INTO A CONVENT, OR HAS GIVEN HIM PERMISSION WITH THE AUTHORITY OF THE BISHOP OF THE DIOCESE, SHE HAVING PREVIOUSLY MADE A VOW OF CONTINENCE, AND BEING OF SUCH AN AGE THAT NO SUSPICION CAN BE RAISED AGAINST HER; THEN THE MINISTER SHALL ADDRESS TO HIM THE WORDS OF THE HOLY GOSPEL:— THAT HE GO AND SELL ALL THAT HE HAS, AND ENDEAVOR TO DISTRIBUTE IT TO THE POOR: WHICH IF HE CANNOT DO, HIS GOOD WILL SHALL SUFFICE. AND LET THE FRIARS AND THEIR MINISTERS TAKE CARE NOT TO BE SOLICITOUS ABOUT HIS TEMPORAL AFFAIRS, THAT HE MAY FREELY DISPOSE OF HIS PROPERTY AS OUR LORD MAY INSPIRE HIM. IF, HOWEVER, HE REQUIRE COUNSEL, LET THE MINISTER HAVE POWER TO SEND HIM TO SOME PERSONS FEARING GOD, BY WHOSE ADVICE HIS GOODS MAY BE DISTRIBUTED TO THE POOR.”

QUESTION II.

Concerning the conditions necessary for entering the Order of Friars Minor.

It may be noted that with regard to this text of the Rule five questions arise concerning the conditions necessary for those who wish to enter our Order: — *First*, ought they to be Catholic? *Second*, whether or not married persons may be received? *Third*, whether or not postulants are bound to sell all their goods and when? *Fourth*, whether or not the Friars may ask for or receive any goods from them? *Fifth*, who may advise them concerning the distribution of their goods?

To the first question, I reply that a person entering the Order of Friars Minor ought to be a faithful Catholic ready at heart to profess the Roman Catholic faith by word and deed; to observe the faith until death and to preserve in it firmly until the end — as is evident from the text of the Rule. From this it is clear, as St. Bonaventure declares, that those received into the Order ought to be ready for martyrdom.

To the second question, I reply that a person entering the Order of Friars Minor can not have a wife *per matrimonium consummatum*. If, however, he has contracted only a *matrimonium ratum* or an engagement with any woman he may enter the Order because, according to the sacred canons, religious profession dissolves marriage

when it is *ratum* only as well as an engagement. But St. Francis added that even married persons whose marriage has been consummated may still enter Religion, namely: if the wife has already entered a convent and has made her profession there or if the wife has made a vow of chastity and the authority of the Bishop intervening gives the husband leave to enter Religion and if the wife be of such an age that no suspicion of incontinence can arise concerning her. St. Bonaventure, writing on this point, says that the age is to be computed not less by the stability of virtue than by the number of years for in *Wisdom* (IV. 8-9) it is said: "Venerable old age is not that of long time, nor counted by the number of years: but the understanding of a man is gray hairs. And a spotless life is old age." If, however, such a married man, entering religion, should leave before making his profession, the vow of chastity made by his wife would no longer bind her but she would be obliged to cohabit with her husband, because the wife in such a case vows chastity only conditionally, namely, if her husband is professed. But if she has vowed absolute chastity she is bound to observe it, also in case her husband should leave Religion, without prejudice however, to the connubial rights of the husband.

But according to St. Bonaventure, by this impediment, all other impediments are understood which render religious profession either illicit or invalid, such, for example, as arise from making profession through grave fear, fraud or coercion; from laboring under contagious disease or epilepsy, from being a serf, or under sixteen years of age, or descended within certain degrees from heretics or Jews, or of illegitimate birth or disreputable, etc. All of these impediments may be found in the

Sacred Canons and Pontifical Bulls and ought to be studied.

To the third question, I reply that the Provincial, or, in his absence, the Guardian is bound to say to those coming to be received into the Order, the words of the holy Gospel that they go and sell all they possess and give it to the poor. This, however, they are bound to say only to those who possess some goods and who can sell the same and give them to the poor since it would be in vain to say these words of the holy Gospel to those who have no goods or who could not give and distribute them to the poor. All those entering the Order, if they wish to make profession in it are bound to obey these words of the holy Gospel by renouncing all their temporal goods, by selling them and giving them to the poor, if they can, so much so, that if a novice, in disposing of his goods directly or indirectly retains anything for the future, either for himself or for the convent, he incurs mortal sin at the moment of his solemn profession, for neither the Order in common nor any Friar in particular, is capable of holding the least right to any temporal goods even the smallest trifle. But this renunciation and distribution of temporal goods among the poor ought not to be made before receiving the habit nor even immediately after receiving the habit, because, by a new law of the Council of Trent, it is provided and decreed that no novice can make an actual renunciation of temporal goods, even in favor of any pious work, until within two months before his profession. And no renunciation which is so made takes effect unless the profession follows. Moreover, the aforesaid Council annuls and invalidates every renunciation or obligation made otherwise, even if con-

firmed by oath. By virtue of the latest law, this renunciation cannot be made except during the two last months before *solemn* profession.

When, however, a novice cannot sell his temporal goods and give them to the poor, either because he has none, or because, although he has them, he is prevented by a reasonable cause, namely, if by this distribution lawsuits, difficulties, scandal, etc. should arise among his relatives, or, if his parents be poor, or, although not poor, may in consideration of their state and rank and the condition of their family, need these goods to maintain their position, to pay debts, to educate their children well and promote their interests according to their state, etc. then, a novice may relinquish his goods to his parents and it suffices if he has the good will to give them to the poor, that is, if he could do so conveniently.

He who is about to make simple vows is bound to cede to others outside the Order the administration, usufruct and use of his goods. But he who is about to make solemn vows is bound to renounce even the radical dominion of all things and goods which he has or might inherit after his profession and to abdicate, as far as he can, all right, even the smallest, to every temporal good in the world, so that stripped and bereft of all temporal goods he may follow Christ naked and poor.

In reply to the fourth question, I answer that those about to be professed should be allowed entire liberty regarding the disposition of their temporal goods so that they may freely dispose of their goods howsoever the Lord shall have inspired them; nor are the Friars to meddle with it in any manner, for the Ministers and all the Friars are forbidden under mortal sin from in any way prejudicing

the liberty of those about to be professed as to the disposition and distribution of their goods, either by solicitude, inducements, requests or any other acts. Clement V. so declared when he says: "For the rest, we say that both the Ministers and the other Friars must abstain from the aforesaid inducements and persuasions to give to them and from giving advice regarding the distribution, since for this they (the postulants) ought to be sent to those of another state who fear God, not to the Friars." The Friars can, however, licitly receive what is voluntarily offered to them by those about to be professed, if the latter wish to give the Friars any of their goods as they would to other poor persons by way of alms. Clement V. so declared, adding: "But it behooves the Friars to beware, in accepting such offerings, lest by the reception of a notable quantity they should appear in a bad light." Furthermore, the Friars may make known the needs of a convent to one about to be professed who wishes and is determined to give alms to the convent; indeed, they may persuade him to give for one purpose rather than for another, even though he may have already been inclined to the other. In like manner, the Friars may suggest to one about to be professed and who already wishes and is determined to give something to the poor, but who is indifferent as to on whom he bestows it, and may commend to him certain deserving poor people of the world provided there is no importunity, because from this nothing prejudicial to the liberty of the one about to be professed nor any covetousness for the thing itself can be presumed. But according to the General Constitutions (n. 28) in no manner can anything be demanded or received from the novices or others in consideration of admission to the habit or

to profession. Therefore, the S. Cong. of Bishops and Regulars condemned the custom of a certain Province of accepting payment from the novices on account of their support, because the novices are to be maintained by means of the common alms given to us.

To the fifth question I reply that if those about to be professed ask advice regarding the disposition of their goods, the Friars are bound to send or direct them to some man who fears God, namely, to one who will be influenced neither by avarice nor by any human respect and which man should also be of another state, that is, not a Friar of the Order or akin to the Friars or an Apostolic Syndic or another person of like condition, for as Clement V. says, "the Friars should not seem in any way to have an eye to their temporal goods but only to gain them (that is the persons to be professed) for the divine servitude." By the advice of such a man their goods are afterwards to be distributed among the poor.

The Rule continues:

THEN LET THEM GIVE THEM THE HABIT OF PROBATION, THAT IS, TWO TUNICS WITHOUT THE HOOD, AND THE CORD AND DRAWERS, AND THE CAPARONE REACHING TO THE CORD, UNLESS IT SHALL SOMETIMES SEEM GOOD TO THE SAME MINISTERS, IN THE SIGHT OF GOD, TO ACT OTHERWISE. BUT THE YEAR OF PROBATION BEING FINISHED, LET THEM BE RECEIVED TO OBEDIENCE, PROMISING ALWAYS TO OBSERVE THIS RULE AND FORM OF LIFE. AND, ACCORDING TO THE COMMAND OF THE LORD POPE, UNDER NO PRETEXT WHATSOEVER SHALL IT BE LAWFUL FOR THEM TO LEAVE THIS ORDER FOR, ACCORDING TO THE HOLY GOSPEL: "NO ONE HAVING PUT HIS HAND TO THE PLOUGH AND LOOKING BACK, IS FIT FOR THE KINGDOM OF GOD."

QUESTION III.

Concerning the habit and profession of novices.

It follows from this text of the Rule that there are three questions to be answered, for when those about to enter our Holy Order have all the conditions requisite for admission, our Holy Father St. Francis wished that being stripped of temporal goods and also of secular garments, they should put on the habit of his Religion, concerning which the *first* question is: In what does the habit of novices consist? The *second* question is: When and by whom ought the novices to be received to profession? The *third* question is: Whether or not having made their profession they can again leave this religion?

I answer, *first*, that the habit of a novice consists (1) of two tunics of cloth, namely, an exterior and an interior, without, however, such a hood as that of the professed, because the hood of the latter has not yet the caparone sewed on like the hood of the novices. The fact that the novices wear any hood with the exterior tunic, arises from this, that the manner of clothing the novices is by the Rule left to the judgment of the Ministers, according to the words of the Rule: Unless at some time it should seem otherwise, before God, to the same Ministers. Because, indeed, it did seem otherwise, it was thus decreed that the novices should also wear the hood, but with a piece of cloth pending before the chest, so as to make a distinction between the habits

of the novices and of the professed. (2) Of a girdle, that is, a common and rude cord. (3) Of drawers or *femoralia* whether they be of linen or of other material. (4) Of a *caparone*, that is a piece of cloth sewed to the hood and hanging in front of the chest: Unless sometimes it should before God seem advisable to the Ministers to act otherwise. For example, if a novice should be of illustrious nobility or on account of some still more reasonable cause, the Ministers could give him permission not to wear the caparone.

To the second question I reply that the profession of novices ought to be made at the completion of the year of probation and not before. Otherwise it would be invalid according to the council of Trent and to the Rule. If, however, a novice should happen to be dangerously ill, he can, by concession of the Supreme Pontiff St. Pius V., make his profession. But this profession would not be *absolute* but *conditional*, namely, if the novice should die it avails, but if he does not die, it does not avail unless it is repeated at the close of the year of probation. For a reasonable cause the profession may also be deferred for some time beyond the year of probation. If, however, the novice is suitable and worthy he cannot be hindered from making his profession because this would be a grave injury to him.

To the third question I reply that the ordinary power of admitting novices to profession pertains to the Provincials alone, but they can delegate it to others. Such is the common opinion of expositors. The reason is, that the Provincials alone have the ordinary power of investing postulants for the Order with the holy habit, which power they can, however, delegate to others as

stated above. Therefore, the same is to be said concerning the profession of novices. Although Friars have no right to admit novices to profession, yet such of the Friars as are solemnly professed have the right of judging concerning the fitness of novices, and they are accordingly held to cast votes for the purpose of admitting novices to profession or of rejecting them.

They are bound thus under mortal sin to vote favorably for the novice if he be judged deserving and they have no just cause for the contrary. It is thus expressly held in the brief exposition of the holy Fathers. In like manner they sin mortally who give their vote in favor of professing one who is unworthy and unsuitable. The reason is that in the first case they would do a grave injury to the novice, whereas in the second case they would unjustly burden the Order in a very important matter.

In casting votes the Friars should always proceed with a sincere heart, having nothing in view but the glory of God and the real good of the Order. For according to this manner of procedure a novice is sometimes to be rejected by all means. For "if the majority of the votes (of the community) should not be favorable to the novice he must be dismissed at once. Nor is the Provincial at liberty to retain him, and this as well at the first, as at the second and third time at which the votes are taken." By this, however, the Provincial is not deprived of the power of expelling a novice who is clearly unsuitable, even if the entire community should have cast votes in his favor.

To the fourth question I answer that a novice, if he wishes to be a true Friar Minor, is bound by his simple profession to promise God to observe the Rule until

death, by living in obedience, without property and in chastity according to the decree of Pope Pius IX., *Neminem latet*, dated March 19, 1857, and the analogous instructions of the Minister General, published June 15, 1858. The substance of these instructions with regard to the professed is as follows: (a) these simple vows are perpetual on the part of the one vowed, inasmuch as they tend to the profession of solemn vows later on and by which they become perfect and complete; (b) dispensation from these vows is reserved to the Roman Pontiff to whom the professed, when urged by grave reasons, may direct their petition; (c) the professed retain the radical dominion of their goods, but the administration of them, the claim to and use of their emoluments is denied them; (d) those simply professed participate in all the graces and privileges of the Order which are enjoyed by those who have made solemn vows and in order that they may enjoy an active and passive voice in the election of officers their years are reckoned from the day of their simple profession; (e) for just and reasonable causes the professed can still be dismissed by the Minister General with his Definitory General, except on account of sickness contracted after profession; by that act of dismissal the professed are absolved from every tie and obligation contracted by profession.

One making solemn vows is bound by his profession to promise God without any reservation to observe the Rule, without any privilege, for all time until his death, namely, the three usual solemn vows and all the precepts which are contained in the Rule. For the Order has frequently protested against all privileges, indults or customs relaxing the Rule.

To the fifth question I reply that he who has professed the Rule of the Friars Minor is prohibited under

mortal sin from leaving that Religion whether to return to the world or to enter any other Order; and this on account of two laws: first, by virtue of the vows and the Rule, and secondly, on account of the command of the Supreme Pontiff. The expulsion of the incorrigible is not, however, prohibited nor transition to the Episcopacy, at the call of the Church.

The Rule continues:

"AND LET THOSE WHO HAVE ALREADY PROMISED OBEDIENCE, HAVE ONE TUNIC WITH THE HOOD, AND ANOTHER (IF THEY WISH) WITHOUT THE HOOD. AND THOSE WHO ARE COMPELLED BY NECESSITY MAY WEAR SHOES. AND ALL THE FRIARS SHALL BE CLOTHED WITH MEAN GARMENTS, AND THEY MAY MEND THEM WITH SACK CLOTH AND OTHER PIECES, WITH THE BLESSING OF GOD: I ADMONISH AND EXHORT THEM NOT TO DESPISE NOR JUDGE MEN WHOM THEY SEE DRESSED IN SOFT AND GAY CLOTHING AND WHO USE DELICATE FOOD AND DRINK; BUT RATHER LET EVERY ONE JUDGE AND DESPISE HIMSELF."

QUESTION IV.

Concerning the habit and clothes of the professed Friars.

It will be observed that four questions arise concerning the habit and clothes of the professed Friars. *First*: in what garments does the habit of the professed Friars consist? *Second*: whether or not and when they are allowed to wear shoes? *Third*: what poorness is required in the clothes of the Friars? *Fourth*: in what manner ought the repairing of their clothing to be made?

To the first question I reply that the habit (or clothes) of the professed Friars consists 1st of two tunics of cloth, one with a hood, the other without a hood. The first denotes the outer habit, to which the hood belongs and which may be either sewed to it or not because neither is commanded by the Rule; the other tunic without a hood denotes the inner habit which is worn under the exterior one. And when it is objected that the Gospel forbids the Apostles to wear two tunics, St. Bonaventure replies, that it only prohibits superfluous garments: and when it allows the Apostles only one tunic, by the name of one tunic the necessary garments are designated; wherefore not to have two tunics, means not to wear superfluous garments. But since it is necessary in Religion that the exterior tunic should differ from the other in length and breath, St. Francis distinguished as necessary garments two tunics; by the first, we understand the outer garment by which the Friars are covered as with a cloak; by the other the

clothing manifestly necessary for the whole body. This is the opinion of St. Bonaventure. Moreover, although it is holy and virtuous to be contented with one tunic with a hood, it is lawful to wear both always, as is evident from the Rule where it is said of the other tunic "and those who wish may have another without a hood" and from the declaration of Innocent XI. The form, however, of the habit and hood and the manner in which they are used by the Friars Minor have been ordained and decreed by the Church or by the Supreme Pontiff. This is evident from the Bull of John XXII. It is also evident from the order of Benedict XIII. of September 8, 1724, by which he ordered that the marble statue of our Holy Father St. Francis, erected in the Vatican Basilica at Rome, should have the same form and shape of habit as that ordinarily worn by the Fathers of the Observance of that time, and which, according to authentic documents, had been used by the whole Order since its first institution.

The habit of the professed consists (2) of a *cord made of wool* and of *drawers made of linen* or other material, as stated above regarding the habit of novices. Innocent XI. so declared. (3) It is also lawful at all times to wear two tunics together with the mantle. The reason is not only that our Holy Father St. Francis also wore a mantle or cloak, but also that the mantle is not considered as part of the tunics or habit inasmuch as it is solely a garment of propriety which may be put on or laid aside at pleasure. Innocent XI. so declared saying, "for any garments of whatever kind besides the preceding (that is, besides one tunic with a hood and another without a hood, a cord and drawers) and except the mantle allowed from the beginning of the Order,

that is such garments as dress shirts, or undershirts, jackets, vests, and the like, are contrary to the Rule, unless a real necessity, approved by the Prelate, exists excusing from the precept."

From this it follows *first*, that those Friars sin mortally (1) who without any legitimate dispensation wear a third tunic, whether it be of cloth or wool, in addition to the two permitted; (2) who without a dispensation wear shirts, jackets, woollen undergarments or other woolens in addition to the two tunics; (3) who without necessity and dispensation, even if they wear only one tunic, wear linen shirts with or without sleeves, jackets, undershirts, short tunics of linen near the skin: as the wearing of such is prohibited to the Friars Minor not only by their Rule but also by the common law. The reason for all this is that all the foregoing things are against the Rule, which assigns for the habit of the Friars Minor only two tunics and these, indeed, of cloth and in no part of linen as expressly appears with regard to the habits of novices which are called cloths of probation, for it would be vain to vest novices in cloths if the professed should not also be bound to be clothed with cloth. Another reason is that both Urban VIII. and Innocent XI. have expressly so declared. From this it also follows, that it is not lawful for the Friars Minor, besides the outer tunic with a hood and the inner tunic without a hood, to have a third tunic in their cells to change. The same may be said regarding duplicate drawers, outer tunics, etc. When, however, the Superiors, for a reasonable cause, allow the Friars to have in their cells still another inner tunic for necessary change, in addition to the outer tunic and the inner tunic, they do so according to

Chap. 4 of the Rule, which says, that the Ministers should take a solicitous care for the clothing of the Friars, as necessity may suggest to them, regarding places, times and cold countries, as will be explained presently.

It follows *secondly*, that the Superiors of the Order can dispense the Friars so that they may wear more than two tunics; likewise that they can wear shirts or jackets of linen, etc., always, however, considering before God and the Rule the necessity and other circumstances. Nicholas III. so declared, adding, that by this the Friars should not be thought to deviate in any way from the Rule, because in it it is expressly said that the Ministers and Custodes ought to take a solicitous care concerning the necessities of the sick and the clothing of the Friars according to places, times and cold countries. Clement V. declared likewise. P. Marchant, writing on this point says, that there is sufficient necessity for dispensing in regard to plurality of tunics or even changes in the following cases: infirmity of a Friar, debility, old age or extreme cold, indeed occasionally, propriety, principally where the Friars are obliged to engage in some dirty work, etc. P. Kerckhove says that sufficient necessity exists for using linen when a Friar is sick, v. g. to absorbe sweats, etc. Lest, however, any one should be mistaken in this, the permission of the Superior is required, that is, an express permission when it can be conveniently asked; an implicit or interpreted permission when the Superior is not present and when such a necessity arises that it cannot be doubted but that the Superior would concede it, if he were present.

It follows *thirdly*, that as Boniface VIII. in order to remove from Religious the dangerous occasions arising

from vagabondage, prohibited all Religious under pain of excommunication, to be incurred by the deed itself, to put off their habit recklessly: so also a Friar Minor doing the same rash act incurs the aforesaid censure. He does not, however, incur it, neither does he sin, if he removes his habit on account of illness or in order that he may clean or wash it or in order that he may pass safe through infidel parts. Although others cited by Kerckhove hold that a Religious sleeping without his habit and lying in bed wholly naked without a legitimate cause, sins mortally, Kerckhove himself thinks that this is only a venial sin because a certain precept obliging under mortal sin cannot be proved. Indeed Lezana, cited by him, excuses also from venial sin those who, for any reasonable cause, sleep clothed with the inner tunic and hood only. The General Constitutions, however, decree that the Friars shall not sleep without the habit or at least without the tunic, drawers and cord, except by permission of the Superior or on account of ill health.

It follows *fourthly*, that the Friars Minor on journeys are allowed to wear hats or double hoods in order to ward off the inconveniences of the weather such as rain, snow, intense heat of the sun, etc. This is the opinion of Marchant and Kerckhove. The reason is that these articles are not reckoned as garments but only among the ordinary commodities of travellers whence they may be worn by the Friars on journeys without dispensation.

To the *second* question I reply that a Friar Minor is forbidden under mortal sin to wear shoes unless impelled by necessity. Clement V. so declared. By shoes, however, in their primary signification are understood *the usual leather coverings for the feet*. Moreover, to wear shoes,

says Hugo de Dina, means their ordinary use. From this Marchant infers that to put on shoes as if *per accidens* for one day to celebrate mass or to dry or relieve the feet after a journey, to use sandals or the like is not properly wearing shoes and is not prohibited by the Rule. Furthermore it belongs to the Superiors of the Order alone to give dispensations for wearing shoes when necessity exists. Clement V. so declared; nor can the dispensation to wear shoes last any longer than the necessity for it lasts. When, however, the dispensation cannot be asked of the Superior, because for example he is absent, a reasonable necessity known from the nature of the circumstance is sufficient; for it is to be well noted that a dispensation of this necessity is rather to be called a declaration than a dispensation.

From these things it follows (1) that to wear slippers for a notable time is also a mortal sin, unless on account of necessity and by dispensation, because they differ but little from shoes since they are of leather and encompass the whole foot from the foremost part. (2) To wear woolen socks covering the whole foot, without a dispensation, is a venial sin because they are not shoes properly speaking, since they are not of leather. Nevertheless, since they cover the foot, both Urban VIII. and Innocent XI. declared that it is not lawful to wear them without cause and a dispensation from the Superior. So Kerckhove. (3) To wear leggings or half hose, called in German *Halbe Strümpfe* (which do not cover the feet but only the shin from the ankle to the knee) is not prohibited by the Rule. Marchant and Kerckhove so declare because these are in no sense shoes. (4) To wear sandals, whether of leather or of wood, is not a sin. This is the opinion of all the expositors, for the Apostles who

were prohibited by Christ from wearing shoes on their feet, wore sandals. (Mark VI. 9.) The same was declared by Urban VIII. since they in no sense cover the feet but only serve as a sole under the foot. Hugo de Dina says that a necessity for wearing shoes exists when "their use is prompted not by human prudence but by a reasonable and urgent cause, as when one's appointed duty is impeded or a spiritual or temporal loss is feared." Without doubt, however, a greater necessity is required for wearing shoes or slippers than for wearing cloth or woolen socks, since the latter are only prohibited under venial sin while the former are forbidden to be worn under mortal sin.

To the third question, I reply that a Friar Minor is bound under mortal sin to wear poor clothes. Clement V. so declared.

(This declaration of Clement V. is to be retained after the Bull *Felicitate quadam* as far as it relates to the poorness of the clothing; decision, however, as to the poorness or quality of cloth, as to the color and form of garment is no longer left to the Provincials but, as those things should be alike everywhere, it is, according to the General Constitutions, for the Minister General to decide what may be necessary to retain uniformity inviolably among us. The Provincial Ordinances and the Provincial Definitorium are now able and ought only to determine the heaviness of the clothing, according to the circumstances of places, whether hot or cold climates. The same holds good for missionaries as the S. Cong. of Bishops and Regulars declared July 8, 1898.)

From all this it follows that a Friar Minor sins against this precept according to the quantity and quality of matter (1) if he wears costly cloth; nor is he to be

excused by reason that expensive cloth lasts longer, because the Rule does not prescribe that a Friar Minor should be clothed in cloth or garments which last longer, but in poor garments; (2) if he wears a habit made of broad-cloth and puts on a fancy cord, for Christ says "that they that are clothed in soft garments are in the houses of kings" (Matt. XI. 8).

To the *fourth* question I reply that the Friars Minor may mend their garments with sack-cloth and other pieces for three ends. (1) To observe greater poverty lest, when their garments are soiled and torn, they should immediately procure new ones instead of repairing the old and worn ones for further use. (2) To relieve weakness or sickness, it is lawful to mend the inner and outer tunic inside to promote natural heat and to resist the cold of winter; in summer, however, the pieces sewed on may be again removed. Hugo de Dina, Marchant and others so declare. (3) To have greater humility and rigor in dress and to despise the world. But lest by this kind of mending the uniformity of garments might be impaired the letter and spirit of the General Constitutions (*§ XV. De vestimentis*) are to be carefully considered.

Lastly, in the end of this chapter, our Holy Father St. Francis admonishes his Friars not to despise or judge other men who wear soft and gorgeous garments and who use choice food and drink but rather that each one should judge and despise himself.

It is evident from the exposition of this second chapter of the Rule, that it contains five precepts obliging under mortal sin. *First:* that by no means it will be lawful for the Friars to leave this Religion. *Second:* that the Friars have one tunic with a hood and those who wish may have another without a hood. *Third:*

that only those who are compelled by necessity can wear shoes. *Fourth*: that they shall be clothed in poor garments. *Fifth*: all those things which are placed in this chapter pertaining to the habit both of the novices and of the professed and which relate to the manner of reception and profession. In this chapter further liberty is granted to mend garments with sack-cloth and other pieces. Lastly it also contains an admonition not to judge or despise other men but ourselves.

The rule continues as follows:

CHAPTER III.

Of the Divine Office and of Fasting, and in what manner
the Friars are to go about the world.

“LET THE CLERICS RECITE THE DIVINE OFFICE ACCORDING TO THE CUSTOM OF THE HOLY ROMAN CHURCH, EXCEPT THE PSALTER; WHEREFORE THEY MAY HAVE BREVIARIES. BUT LET THE LAY-BROTHERS SAY TWENTY-FOUR *OUR FATHERS* FOR MATINS, AND FIVE FOR LAUDS; FOR PRIME, TIERCE, SEXT AND NONE, FOR EACH OF THESE, SEVEN; FOR VESPERS, HOWEVER, TWELVE; FOR COMPLINE, SEVEN; AND LET THEM PRAY FOR THE DEAD.”

QUESTION I.

Concerning the Divine Office of Clerics.

It may be observed that the Divine Office is generally defined as “that external public religious Rite instituted by the authority of the Church and imposed upon certain persons for worshipping God and praying to Him in the name of the Church.” To this class belong the Canonical Hours, Mass, Litanies, etc. Now the Canonical Hours are public and settled prayers, to be said to God by Ecclesiastics in the name of the Church, according to a decree of Canon Law. There are in fact in the Roman Church seven Canonical Hours, namely, Matins with Lauds, Prime, Tierce, Sext, None, Vespers and Complines.

It is also to be noted that the Roman Catholic Church has commanded that all clerics in Sacred Orders or beneficiaries must recite the Canonical Hours daily *devoutly*, that is with due intention and attention, and *zealously*, that is entire with respect to matter, and *correctly* with respect to form. So it is contained in the Lateran Council under Innocent III., which supposes the law then already existing by custom.

It is to be further noted that devotion consists in the prompt will of doing what pertains to divine worship. To this devotion intention and attention are necessarily required. The formal intention is an act of the will to

recite the Canonical Hours in praise and worship of God or to satisfy the precept of the Church. But attention is an act of the intellect by which it adverters either to the proper utterance of the words in the Canonical Hours or to the sense of the words or to the praise and worship of God. Intention and attention may be either *actual* when one is actually determined to praise God and advert to that praise, or *virtual* when the act once made is not revoked but still retains its force, or *habitual* when although once made and never revoked, nevertheless, it no longer affects or moves the present recitation of the Hours. Furthermore, attention can also be *external* when it shuns and excludes external acts which by their nature distract the intellect from internal attention during the Canonical Hours, or *internal* when the intellect itself adverters to the Canonical Hours.

These things having been noted, I reply that clerics of the Friars Minor, solemnly professed, are bound under mortal sin, by virtue of the Rule, to recite the Canonical Hours according to the rite of the Holy Roman Church.

From this it follows *first*, that a Friar Minor cleric, solemnly professed, is bound to recite the Canonical Hours with at least the implicit and virtual intention of praising God, which intention consists in his having the wish of satisfying his obligations or of reciting the Canonical Hours as he ought. Indeed, it is said to be sufficient to take the breviary with deliberation to go to choir, etc., so that on being asked, one could truly reply that he did this to recite the Hours or to satisfy his obligation. This is the most common opinion of theologians.

It follows *secondly*, that a Friar Minor cleric, solemnly professed, is bound under mortal sin to recite the

Canonical Hours with external attention. Hence he sins mortally who, during the recitation of the Canonical Hours, chats with others for a notable time, writes letters, plays games of chance or cards, or reads news or listens to the reading of it. He, however, who during the recitation of the Canonical Hours has external attention but not *internal* because he is wilfully distracted, certainly *sins venially but not mortally*, according to a probable and safe opinion. The reason for this is that no law can be found commanding, under mortal sin, internal attention during the recitation of the Canonical Hours.

It follows *thirdly*, that a Friar Minor cleric, solemnly professed, sins mortally if he culpably omits the recitation of the Canonical Hours for one day or, even, a notable part of them, namely, one of the Little Hours or the whole of Lauds or a similarly equivalent part. The reason is that, although one Little Hour does not seem to be a notable part with respect to the whole of the Divine Office, nevertheless it must by all means be considered a grave matter when taken in itself and considering the end of the Church which wished that at stated hours of the day a particular worship, and this, moreover, on account of a peculiar mystery, should be offered up to God by clerics — which end is notably frustrated by the omission of even one of the Little Hours.

It follows *fourthly*, according to the common and more true opinion, that a Friar Minor cleric, solemnly professed, sins mortally if he omits to recite the Greater Litany on Rogation days or on the feast of St. Mark or if he omits the Office of the Dead on the Day of the Commemoration of all the Faithful Departed. If, however, on other days noted in the Breviary he omits, out-

side of choir, to recite the Little Office of the B. V. M., the Penitential and Gradual Psalms, and the Office of the Dead he does not sin, because St. Pius V. freed those bound to recite the Roman Breviary from that obligation. In the Bull prefixed to the breviary, St. Pius V. does not oblige to the recitation of the aforesaid offices in choir, with the exception of the office of the B. V. M. and this only in those churches in which, previous to the publication of this Bull, the laudable custom existed of reciting this office in choir. The Bull in question was issued July 7, 1568.

It follows *fifthly*, according to the common opinion, that a Friar Minor sins only venially,¹ if he changes the Divine Office for another, for example, by reciting the Canonical Hours from the feria when they ought to be recited from the feast or the reverse. *Exception 1.* If the Canonical Office of Palm Sunday is changed into the Paschal Office because Alexander VII. condemned the following proposition: "He satisfies his obligation who recites the Paschal Office on Palm Sunday." *Exception 2.* If the office, though equivalent, is often changed thus for another without any cause, for this would be a grave offense against the universal rite of the Church and hence a mortal sin. He, however, who, through an inculpable mistake, errs in any of the Hours, for example, by reciting from the feria when it is to be recited from the feast, or the reverse, and then perceiving the error, ought not to continue it, for it is better to recite the remaining Hours according to the current office of that day so that in these, at least, he may conform to

¹ If there be any reasonable cause as, for example, that you may recite with a companion, such a change is not illicit, especially when the office of your companion is not very short.

the Church or his community whose duty it is to observe the law in as much as is yet possible.

It follows *sixthly*, that a Friar Minor inverting the order of the Canonical Hours without just cause, for example, by reciting Vespers before the Little Hours (at least if it is done out of choir) sins only venially. But there is no sin if this is done merely through inadvertence or for a just reason as, for example, to please one who is sick and wishes you to recite the Canonical Hours with him. Or, if in choir, they are saying the later Hours, for example, the Little Hours *when you have not recited Matins you can, without sin, recite the Little Hours with the choir and when the choir has finished say your Matins.* This is the *common opinion of Doctors.*

It follows *seventhly*, that when a Friar Minor does not observe the time prescribed for reciting the Hours he sins only venially. Nevertheless, Matins with Lauds of the following day can be recited outside of choir without sin the evening before, after Complines, that is at four o'clock in the afternoon or sooner, according to the season: Prime, Tierce, Sext and None are canonically recited during the morning, and Vespers with Complines after noon. Therefore, he who defers saying Matins or the Little Hours until evening without reasonable cause or who without cause recites Vespers or Complines before noon, sins venially, *except during Lent* when Vespers ought to be recited in choir before dinner, though outside of choir, Vespers can be recited after noon without any sin. Lastly, to avoid mortal sin, it suffices to recite all the Canonical Hours from one midnight to the next, besides which Matins with Lauds can be anticipated on the day before as already stated. Now,

if you would not have recited the Canonical Hours during the time indicated, you sin mortally, although you should not yet be a Subdeacon, provided you are a *cleric Friar Minor solemnly professed*, as is evident from the Rule; you are not, however, held on the following day to supply the Canonical Hours or to recite them twice because they are a burden fixed to the day.

It follows *eightly*, that this precept of reciting the Divine Office according to the order of the Holy Roman Church does not oblige the Friars Minor *in particular* to recite the Canonical Hours *in choir*; because the Roman Church does not absolutely bind singular persons *in particular to the choir*, except those who are bound by reason of benefices or offices, and the Friars Minor are not of this class. But Religious in general, and consequently the Friars Minor also, are bound to recite the Canonical Hours *in choir* according to the common sense and express precept of the Church. This is evident from the *Clementina*, where it is said that “in Cathedrals, Collegiate Churches and in Churches of Regulars the Office shall be devoutly chanted” — which obligation is without doubt grave and obliging under mortal sin, but it devolves principally on the whole community or convent and on the Superiors *ex officio*, and to satisfy it there ought to be at least four or five of the Religious *in choir*.

It follows *ninthly*, that by the Psaltery of the Roman Church, concerning which exception is made in the Rule, is to be understood the *psaltery translated from the text of the Septuagint* which is peculiar to the Roman Church, in use by the Cardinals and not used outside the City of Rome.

QUESTION II.

Of the Divine Office of Lay Brothers.

Under this head we have to inquire whether or not the lay Brothers also are bound under mortal sin to recite the *Our Fathers* prescribed by the Rule and also whether or not they are bound to pray for the dead.

I reply that the lay Brothers are bound under mortal sin to recite daily the “*Our Fathers*” prescribed in the Rule. The reason is that it has been so understood by the Order from the beginning, and that it was so declared by apostolic authority, through R. P. Francis de Angelis, Minister General in the year 1523. The lay Brothers are not, however, obliged to add just as many *Hail Marys*, although these are added by a pious custom never to be abandoned, because no mention is made of the *Hail Mary* in the Rule nor has anything been said concerning them in any Pontifical declaration.

It follows *first*, that a lay Friar Minor omitting to recite one Minor Hour, v. g., seven *Our Fathers* for Complines, sins mortally for the same reasons as those given in the preceding question when we said that a Friar Minor cleric sins mortally if he omits to recite one of the Little Canonical Hours. Likewise, in the recitation of their *Our Fathers* the same intention and attention is required on the part of the lay Brothers as is required

of the clerics in their recitation of the Canonical Hours.

Lastly, to avoid mortal sin, it suffices if the lay Brothers recite their *Our Fathers* from one midnight to the next in addition to which they can anticipate Matins and Lauds at four o'clock in the afternoon, the same as the clerics. And if on one day they fail through negligence to recite their *Our Fathers* and consequently have sinned mortally, they are not bound on the next day to supply the *Our Fathers* omitted because they are a burden affixed to the day.

It follows *secondly*, that the lay Brothers are bound to say some particular prayer for the dead daily because the Rule adds concerning the lay Brothers "and they shall pray for the dead." But which and how many prayers must be said, is not, as P. Marchant says, specified in the Rule. Hence P. Kerckhove thinks that the lay Brothers are not bound, under mortal sin, to this prayer for the dead. The author of the *Serena Conscientia* believes that the words "laics should pray for the dead" have been added because, says he, in both the daily and the nightly office the dead are always prayed for by the clerics, but in the office of the lay Brothers this is not the case.

The Rule now continues, as follows:

"AND LET THEM FAST FROM THE FEAST OF ALL SAINTS UNTIL THE NATIVITY OF OUR LORD. BUT THE HOLY LENT WHICH BEGINS AT THE EPIPHANY AND LASTS FOR FORTY SUCCESSIVE DAYS, WHICH OUR LORD CONSECRATED BY HIS HOLY FAST, LET THOSE WHO VOLUNTARILY KEEP IT, BE BLESSED BY GOD, AND LET THOSE, WHO WILL NOT KEEP IT, NOT BE OBLIGED; BUT THEY SHALL FAST DURING THE OTHER LENT UNTIL

OUR LORD'S RESURRECTION. AT OTHER TIMES THEY ARE NOT BOUND TO FAST, EXCEPT ON FRIDAYS. BUT IN TIME OF MANIFEST NECESSITY THE FRIARS ARE NOT BOUND TO CORPORAL FASTING."

QUESTION III.

Of the fasts to which the Friars Minor are obliged by the Rule.

As is known *abstinence* is one thing and an *ecclesiastical fast* is another, for abstinence implies only abstaining from flesh-meat and, for the rest, on a day of abstinence only, a second and indeed a third entire refection of Lenten food may be taken at whatever hour may be agreeable. But for an *ecclesiastical fast* (of which we are here speaking as distinguished from a *natural fast* which is to abstain from receiving any food or drink into the stomach — such as is required from midnight for receiving the Bl. Sacrament) two essentials are required : (1) *abstinence from flesh-meat* apart from a dispensation, and in the Lent preceding Easter *abstinence also from eggs and lacticinia*, apart from privilege or custom to the contrary (such as is, in fact, enjoyed in all the upper provinces of Germany on account of the scarcity of Lenten food, especially of oil and fish) and this under mortal sin ; wherefore, every time anyone eats meat in a notable quantity on a fast day he sins mortally because he transgresses the negative precept *not to eat meat* which obliges ever and forever. If, however, but a small quantity of meat is eaten it would be a venial sin only.¹ The

¹ At present it is generally held that the essence of fasting consists in the unicity of a full meal and that abstinence from meat is only an integral part of the same.

ecclesiastical fast requires (2) that on fast days there should be *only one full meal morally continuous* to the exclusion, under mortal sin, of repeated meals although this is probably incurred only by the first repeated meal. This one full meal, which is permitted on fast days, ought, however, to be taken *at eleven o'clock in the forenoon*, although the determined time does not pertain to the essence of the ecclesiastical fast, as do the abstinence from meat and the one meal. Therefore, if this hour is anticipated even notably and without reasonable cause, it is only a venial sin; but if it is anticipated for any reasonable cause there would be no sin. On fast days, however, it is also lawful, from custom legitimately prescribed, to take *an evening collation*, in addition to the one full meal. As regards *quantity*, this collation can amount to the *fourth part of an ordinary supper*;¹ as regards the quality of the food, all foods which can be eaten for dinner on a fast day, can also be used at the evening collation. This collation can, moreover, be taken about noon without sin and the full meal taken towards evening; because it is a greater bodily mortification to take the evening collation at noon and the full meal in the evening. For the rest, it is not forbidden either on fast days or days of abstinence to drink *any pure drink*; v. g., wine, beer, water, coffee, chocolate, etc. But *milk, honey, soup, meal or gruel* and the like are not allowed, because they are not pure drink since they are nourishing from their nature.

It may now be asked on what days are the Friars Minor bound by their Rule to observe the Ecclesiastical Fast.

¹ Theologians commonly think that the fourth part of an ordinary meal may be taken or even eight ounces.

I reply, that the Friars Minor are bound, under mortal sin, by their Rule to fast: (1) From the Feast of All Saints to the Nativity of Our Lord. (2) Beginning on Ash Wednesday until Easter. (3) On every Friday throughout the entire year, even if Christmas Day falls on a Friday — from the declaration of Honorius III. This is also evident from the Rule and from the declaration of Clement V.

From these facts it follows *first*, that the Friars Minor are bound on the days stated to fast according to the custom of the country and the common form of fasting so that, if it is the custom of the country and the common usage of fasting to abstain from *laticinia* and eggs, the Friars Minor ought also to abstain from them. If, however, the eggs and *laticinia* are not prohibited by the common usage of fasting then, in like manner, the Friars Minor need not abstain from them.

It follows *secondly*, that on the above mentioned fast days prescribed by the Rule, the professed Friars Minor are bound to fast even if they have not yet completed their twenty-first year and although others, who are not Friars Minor, are not bound to the ecclesiastical fasts until after the completion of twenty-one years of age. The reason is that the Rule obliges the Friars Minor, of whatever age they may be, to fast on the above mentioned days, immediately after profession.

It follows *thirdly*, that although the Friars are bound to fast from the feast of All Saints until the Nativity of Our Lord, and from Ash Wednesday until the Resurrection of Our Lord, nevertheless, they are not obliged to fast on Sundays occurring between the feast of All Saints and the Nativity of Our Lord, and between Ash Wednesday and the Resurrection of Our Lord, but are

only obliged to abstain from meat and may eat more than one full meal. The reason is that the Catholic Church does not prescribe a fast on any Sunday throughout the whole year but, at most, prescribes abstinence from meat on Sundays occurring in Lent between Ash Wednesday and Easter Sunday. Therefore.

It follows, *fourthly*, that the Friars Minor are not bound under sin to fast during the forty successive days beginning from Epiphany. The reason is clear for the Rule expressly says: "But the holy Lent which begins at the Epiphany and lasts for the forty successive days, which our Lord consecrated by His holy fast, let those who voluntarily keep it be blessed by God and let those who will not keep it not be obliged." Nevertheless, he who fully wishes to fast from the Epiphany for forty successive days need not fast on the Sundays occurring during this holy Lent, but ought only to abstain from meat and may take a second full meal of Lenten food. The reason is that in the preceding number it was said that the Friars Minor ought not to observe a fast but an abstinence only on Sundays occurring between the feast of All Saints and the Nativity of Our Lord and between Ash Wednesday and the Resurrection.

It follows, *fifthly*, that the Friars Minor are not bound by the Rule to fast at other times than those three specified in the foregoing response, by which words, says Clement V., "we declare it ought to be understood that the Friars Minor are not bound to fast at other times except on fasts instituted by the Church. For it is not likely that either the institutor of the Rule or the one who confirmed it, intended to exempt them from observing those fasts to which other Christians are obliged by the common statute of the Church." Wherefore, the Friars are

bound, in addition to the fasts prescribed by the Rule, to fast on other days prescribed by the Church; namely, *on certain vigils and on Ember Days, in addition to the fast from All Saints to Christmas, and from Ash Wednesday to Easter Sunday, and in addition to Fridays throughout the year.* Here, however, it should be known that on *fast days prescribed by the Church alone and not by the Rule* the Friars Minor are bound to fast provided they have completed their twenty-first, and not yet commenced their sixtieth year; when, however, they have not yet completed their twenty-first year or have already completed their sixtieth year, then on fast days prescribed by the Church only and not by the Rule, they are not bound to fast but only to abstinence. The reason is, that other Christians are not bound to fast on fast days prescribed by the Church alone but only to abstain, when they have not yet completed their twenty-first year or when they have already passed their sixtieth year. This is the opinion of Corduba, Kerckhove and others quoted by Sporer.

It follows *sixthly*, that, generally speaking, there is no fast on Saturdays but only abstinence from meat, except on Saturdays which are vigils or ember days or which fall within the fasts of the Rule; namely, between the feast of All Saints and Christmas and between Ash Wednesday and Easter Sunday. In several Provinces, however, the old and laudible custom of fasting on Saturdays in honor of the B. V. M. happens to exist, yet the observation of this fast is of counsel only, not of precept and its transgression is in no manner sinful.

It follows *seventhly*, that, although as noted above, only *one full meal* is allowed on fast days, this one meal need not to be *one mathematically continuous* but *one*

morally continuous, namely, without notable interruption; for if it is interrupted in a notable manner, it would not be one but two meals against the precept of the Rule and of the Church and a mortal sin. From this one meal, however, persons are excused: (1) *By office*, as in monasteries, those who read at the table or serve at the meals may, before the meal, licitly take a bite or anything else, not only to increase their strength so that they may read and serve better during the meal, but also because this previous taking is held to be the moral commencement of the meal. (2) *By business*, as if business occurs before the dinner or supper is ended, v. g., if one has to act as companion of a Father going to the sick or dying, or to accompany a Father who is to preach outside the convent, or if the hour for prayer before the Bl. Sacrament having come etc., you are compelled to leave the table without having eaten enough, you may, in these cases, return to dinner or supper to finish the same at the conclusion of the business. Such is the *common opinion* of Doctors.

It follows *eighthly*, from the foregoing, that on fast days, besides one full meal of Lenten food, it is also lawful to take an evening collation; namely, *the fourth part of an ordinary dinner*. I say an *ordinary dinner*, because, if on a fast day you have had an extraordinary and sumptuous meal at dinner, then you cannot, without breaking the fast, eat a fourth part of that extraordinary meal at which you eat very much, because this would make a second full meal which is prohibited. Therefore, those who sit for three or four hours at a sumptuous feast and who fill their stomachs *ad nauseum* with various kinds of food, should see to it whether or not they break the fast in the evening collation if they wish

still to eat a fourth part of this extraordinary, or even of an ordinary, dinner.

It follows, *ninthly*, as the Rule puts it, *that in time of evident necessity the Friars Minor are not bound to corporeal fasting*. Hugo de Dina, defining evident necessity, says: "Necessity is evident when no doubt exists in an intelligent and discreet man, especially a prelate." Therefore, in doubts, it is always better to have recourse to the opinion of Prelates who can even supply, by their authority to dispense, what is perhaps wanting in the real necessity.¹ Besides, this necessity excusing from fasting is to be understood, according to the author of the *Four Masters*, not in one but in many ways. For necessity to eat arises sometimes by reason of *age*, sometimes by reason of *sickness*, or of *work*. 1. *By reason of age*. A young Friar Minor *under twenty-one years of age* is not exempt from the fasts of the Rule,² but he is exempt from fasts prescribed by the Church alone and not prescribed by the Rule, so that in these he is not bound to fast but only to abstain from meat, as has been said above. An old Friar Minor, over sixty years of age, is not bound to fast but only to abstain on days of fasting prescribed by the Church alone and not by the Rule, as has also been said above. *As to whether or not a Friar Minor over sixty years of age is bound to fast on the fast days prescribed by the Rule or only to abstain from meat,*

¹ Superiors do not act prudently when they onerate the conscience of their subjects seeking for a dispensation in doubtful cases. They should rather dispense them in doubtful cases siuce they have the necessary faculties to this end.

² For in his profession he promised "to observe the Rule throughout the whole course of his life;" but for other reasons he may be excused.

Marchant, Dina and Sporer say that he is not bound to fast but only to abstain. The reason is that the fasts prescribed in our Rule as stated above, are not vows but precepts obliging in the same manner as the precepts of the Church. But as according to Marchant, Lamas, and Sporer, the Supreme Pontiff has declared that those who have completed sixty years are not obliged to observe the ecclesiastical fasts, because old age is itself a disease and disease excuses from fasting; therefore, also a Friar Minor who is over sixty yeary of age is no longer bound to fast but only to abstain from meat. Sporer also adds: "this probable opinion, however, is not to be counseled to old men who are in good health, nor for twenty years have I seen it practised by anyone, unless he was excused by reason of his infirmity." (2) *By reason of infirmity.* All those who are sick or who are just convalescing from sickness, are either entirely or partially excused from fasting in proportion to the nature of the illness or infirmity, and may either have double meals or even eat flesh-meat according to the judgment of a prudent and conscientious doctor, or of another virtuous man, especially of the Superior, or according to the urgency of the necessity itself, because the Rule intends by fasting to mortify the rebellion of the flesh only, not to oppress or destroy nature. (3) *By reason of hard work.* All those are excused from fasting who perform work, whether bodily or mental, which is notably fatiguing to the body or who undertake an arduous journey which one fasting could make only with great difficulty. In these cases let each one be a sincere and prudent judge for himself, or if he cannot, let him consult some other pious man, who is learned and prudent, whom he ought to believe and submit to

and whose opinion he ought humbly to follow. Lastly, P. Kerckhove, with the majority, notes that a greater necessity is not required not to fast on fast days prescribed by the Rule, than on fast days prescribed by the Church alone.¹

The Rule now continues:

“BUT I COUNSEL, ADMONISH AND EXHORT MY FRIARS, IN THE LORD JESUS CHRIST, THAT WHEN THEY GO ABOUT THE WORLD THEY NEITHER CONTEND NOR DISPUTE, NOR JUDGE OTHERS; BUT THAT THEY BE MEEK, PEACEFUL AND MODEST, GENTLE AND HUMBLE, SPEAKING COURTEOUSLY TO ALL, AS IS BECOMING. AND THEY MUST NOT RIDE, UNLESS COMPELLED BY MANIFEST NECESSITY OR INFIRMITY. INTO WHATSOEVER HOUSE THEY ENTER, LET THEM FIRST SAY: ‘PEACE BE TO THIS HOUSE,’ AND ACCORDING TO THE HOLY GOSPEL THEY ARE PERMITTED TO EAT OF WHATEVER FOOD MAY BE SET BEFORE THEM.”

¹ It is well to quote here the reply of the Holy Office of 20. Dec. 1871, according to which Regulars, who are not bound by an especial vow, of abstinence from meat, may participate in the indults regarding the use of food by the faithful promulgated, in the name of the Holy See, by the Bishops in different places during Lent and at the other times of the year. But when special indults are granted to eat meat on Fridays during the year, the Friars Minor may not make use of these indults, even when the clause is added: “Regulars included,” as is clear from the response of the Holy Office of 18. Nov. 1891. The reason is this: because the Friars Minor are obliged not only to abstain from meat, but also to fast on Fridays, whereas in these indults dispensation is granted from the law of abstinence only.

QUESTION IV.

**Whether or not the Friars Minor are permitted to ride
on horseback, or on other conveyances.**

It will be noted that the text of the Rule above cited contains (1) *an admonition of our Holy Father St. Francis to avoid evil*; namely, that the Friars Minor should go through the world two and two, as did the disciples of Christ, and that they should *not quarrel* with each other, much less with strangers; that they should *not contend in words*, insisting pertinaciously on their own opinion and judgment; that they should *not judge or condemn others* rashly, but should, as far as possible, excuse their defects. It contains (2) *an admonition to do good*; namely, that the Friars Minor should be *meek* in their speech; *humble* at heart; *peaceful*, procuring and preserving peace in themselves and others; *affable* regarding the defects of others, or when blamed, despised or injured by them; *modest* in gait, manner, gesture, speech and customs; *speaking to all as it becometh*; namely, with due reverence and humility, giving to each one his proper title, abstaining from useless, vain, impolite, facetious, ridiculous, or offensive words, much more from those which are injurious, bitter, irritating, or unbecoming,

etc. It contains (3) an admonition *to do good to others*; namely, that the Friars Minor into whatever house they may enter shall first say: "Peace be to this house," because Christ also when He came to his disciples said to them: "Peace be with you" (John XX., 19); and because Christ revealed this salutation to our Holy Father St. Francis. Although this salutation may not, indeed, be in use among世俗s, it ought, however, to be in use among the sons and brothers of our Holy Father St. Francis. It contains (4) *a privilege for the Friars*; namely, that, *according to the holy Gospel, it is lawful for them to eat of any food which is placed before them*. This privilege or indult is to be properly understood; namely, that it is lawful to eat of all food which is placed before them unless they are obliged on that day either to fast or abstain by a precept of the Rule, or of the Church. Hence outside of days of fast or abstinence prescribed by the Rule or by the Church, the Friars Minor may eat meat either inside or outside the convent, because the Rule nowhere prohibits it; indeed, on the contrary, it allows it. It finally contains also (5) what is equivalent to a precept and obliges under mortal sin; namely, *that they should not ride unless compelled by evident necessity or infirmity*. In order to understand this

It must be noted, *secondly*, that *to ride* (*equitare*) in the strict grammatical sense is the same as to make a journey by riding on a horse or by being drawn by a horse, but ordinarily by *riding* we mean to make a journey sitting on a beast. Wherefore Hugo de Dina says: "Commonly speaking, persons are said to ride when they use any animal to carry them. According, however, to the proper meaning of the word, those only are considered to ride who sit upon animals of the equine

family.''
Two causes are given why our Holy Father St. Francis forbids his children to ride. The first is *humility and austerity*; the second is *more rigid poverty* and *the example of Christ and of the Apostles*.

To the question I reply that the Friars Minor are forbidden to ride under mortal sin, unless compelled by evident necessity or infirmity. Clement V. so declared. From this

It follows, *first*, that the Friars Minor are forbidden under mortal sin to ride, *that is to make a journey sitting on horseback or being carried by a horse*, because this is to ride in the strict grammatical sense and according to the proper meaning of the word. And since this precept, as restricting liberty, might be fitly understood only in the strict grammatical sense and according to the proper meaning of the word, Hugo de Dina concludes, and Kerckhove also, regarding this passage of the Rule, that to be carried by other animals *is less prohibited by the letter of the Rule*. When, however, he says *less prohibited*, he indeed signifies that to be carried by other animals is also prohibited by the Rule, but not so strictly as to be carried *by a horse*. Wherefore

It follows, *secondly*, that it is contrary to the Rule to be carried by another beast than a horse without reasonable cause, but not so much so as it is to ride strictly speaking, and, therefore, less cause is required for the former than for the latter. This is the opinion of Kerckhove, who adds: "Since, therefore, the intention of St. Francis is believed to have been rather to exclude pomp than the necessity and utility of riding, I think, some reasonable causes being supposed, that in these regions it is not so great a sin against this precept to be riding, for example, an ass as a horse. For this is not

pompous; on the contrary, it seems vile and contemptible if any one is riding an ass, and since gentlemen and those of whatsoever other condition do not use asses to carry them.

It follows *thirdly*, that *as far as the words of the Rule go*, the Friars Minor are not forbidden to ride in two-wheeled or fourwheeled vehicles. The reason is that to ride thus can not be understood as riding on horseback (latin : *equitare*), except in a highly improper sense. The Rule, however, is to be understood simply, that is, in the commonly accepted sense of the words. I say, *as far as the words of the Rule go*; for from other points of view driving is prohibited to the Friars except in case of necessity or infirmity. (1) *By reason of the expense* on account of which it would be necessary to have recourse to spiritual friends for money; but to have recourse to spiritual friends for money without necessity is certainly a mortal sin, as will be shown in the exposition of the next chapter. And so St. Bonaventure considered it when, to these words of the Rule, "And they should not ride," he adds, "and as a consequence they should neither drive in two-wheeled or four-wheeled vehicles because the expense is greater." He does not say that such driving is against the Rule on account of this precept, but only holds that it should not be lawful for the Friars on account of the expense, concerning which it would be necessary to have recourse; and thence if a common carriage, such as a farmer or common people ordinarily use, is given *gratis*, a Friar Minor does not seem to sin where for a reasonable, though not necessary, cause he uses a two-wheeled or four-wheeled vehicle to be driven. Otherwise he could not travel by water, especially where one is drawn by a horse, as may

be done in rivers; but Christ, with His disciples, and St. Francis, with his companions, often sailed. It is, however, prohibited to ride in a carriage on account of pomp and expense. (2) *By reason of scandal and danger of the same or on account of the serious deviation from the humility and economy of the most poor state of a Friar Minor,* the Friars are forbidden to drive in two-wheeled or four-wheeled vehicles and, on account of this prohibition, our General Constitutions, n. 198, forbid not only riding, but also such driving as well: wherefore, without doubt, a Friar Minor sins mortally, if he pompously drives through the public streets in a carriage in the manner of a magnate or a noble, contrary to the humble and austere ways of Friars Minor and not without scandal and wonder of the people.¹

¹ The opinion, which is followed by the author, by Merchant, Kerckhove and others against many expositors, was confirmed by the S. Congregation of Bishops and Regulars. Being asked: "whether and how the use of railroad cars was permitted to the Friars of the Observance?" the S. Congregation on June 9, 1563, answered: "It is allowed for a reasonable cause with the permission of the Superiors, as in the case of using carriages, provided it be done with the spirit of humility." From this two things follow: 1) The use of railroad cars is not forbidden by the text of the Rule. 2) It is not forbidden because the use of carriages, to which they are compared, is not forbidden.—From this comparison some drew the contrary conclusion: viz., As the use of carriages is forbidden to us except in case of infirmity or manifest necessity, so for the same reason we may not use railroad cars unless compelled by infirmity or manifest necessity: hence another doubt was proposed to the S. Congregation of Bishops and Regulars: viz., "Whether a reasonable cause was sufficient to obtain the aforesaid permission of the Superior, or whether there must be rather infirmity or manifest necessity?" The S. Congregation of Bishops and Regulars on July 21, 1876, answered in the affirmative to the first part, in the

It follows, *fourthly*, that the Friars Minor may travel by water, though not compelled by necessity or infirmity, provided they have not to pay for the voyage in money. The reason is: (1) Because to travel by water is in no sense to ride on horseback. (2) Because boats serve both rich and poor exclusive of pomp or pride. (3) Because even Christ and His disciples travelled by boat. That boats are sometimes drawn by horses is entirely *per accidens*. (4) *I say, if they do not have to pay for the voyage in money.* For if a Friar Minor would be obliged to have recourse to money on account of a journey by boat, he could not do so unless compelled by necessity, since a Friar Minor cannot have recourse to money unless compelled by necessity, as will be shown in the exposition of the following fourth chapter of the Rule.

It follows *fifthly*, that the causes excusing a Friar Minor from sin for riding on horseback, are explained in the Rule; namely, *evident necessity or infirmity*. Accordinging to St. Bonaventure, evident necessity arises under

negative to the second. — Consequently neither for the use of carriages, infirmity nor a manifest necessity is required; but a reasonable cause suffices.

But if the use of carriages, as also the use of railroad cars is not forbidden by the Rule, why is the condition added: "for a reasonable cause with the permission of the Superiors?" It is unreasonable to put a condition to a law which does not exist.— Answer: This condition was made because the use of carriages was forbidden to the Friars of the Observance, as the case stands, by the General Constitutions, from which the Superiors can dispense for a reasonable cause, as everybody knows. This prohibition is renewed by our present General Constitutions, n. 198. Therefore nobody may ride in a two-horse or four-horse carriage without a real cause, which is not to be confounded with infirmity or manifest necessity, and without the express permission of the Superior.

three heads. (1) *On account of the length of the journey*, which could not be made on foot within the required time except with great inconvenience or probable danger to health. (2) *On account of obstacles in the journey*, which could not be surmounted on foot, such as water, mud, snow, etc. (3) *On account of the urgency of business*, which is pressing and ought to be despatched in a short time; v. g., to assist the dying, to hear necessary confessions, to avert serious damage, etc., so that either one could not attend to them properly by going on foot, or could not do so without serious damage or great risk. Here it is to be noted, that the necessity and legitimate cause which occasion necessity of this kind, ought to be joined together before it is lawful to ride thus, so that no one solely for pleasure of mind, or recreation, or mere love of liberty, should inaugurate a journey when he knows, or ought to know, that without riding he could not accomplish it. This is the common opinion of expositors of the Rule. The reason is, because otherwise such a one could not be said to be urged by evident necessity. The other reason for riding on horseback is *sickness*, which is then held to afford sufficient cause for riding when one who is sick is to go on a journey either to proceed to, or return from, a place of residence or obedience, or whether he makes a journey to recover his health or strengthen it by exercise or a change of air.

From this exposition of the Third Chapter of the Rule, it is evident that this chapter contains *three precepts*, obliging under mortal sin. The *first* is, that clerics shall recite the Divine Office according to the order of the Holy Roman Church, and that laics shall say the “Our Father.” The *second* is, that the Friars shall fast from the feast of All Saints to the Nativity of Our Lord and

from Ash Wednesday to Easter Sunday and on Fridays throughout the year. The *third* is, that the Friars ought not to ride on horseback unless compelled by evident necessity or infirmity. There are further contained in this chapter *three admonitions*. The *first* is, that when the Friars go through the world they should neither quarrel nor contend in words nor judge others. The *second* is, that the Friars should be meek, peaceful, modest, affable and humble, speaking with propriety to all, as it becometh. The *third* is, that, whatsoever house they may enter, let them first say: "Peace be to this house." Lastly, there are contained in this chapter *two licenses*. The *first* is this: that whosoever voluntarily fasts during the Holy Lent which begins from the Epiphany and continues for forty successive days, may they be blessed by God, and those who do not are not obliged. The *second* is, that, according to the Holy Gospel, it is lawful for the Friars to eat of any food which is placed before them.

The Rule continues:

CHAPTER IV.

THAT THE FRIARS MAY NOT RECEIVE MONEY.

“I STRICTLY COMMAND ALL THE FRIARS THAT THEY BY NO MEANS RECEIVE MONEY, EITHER BY THEMSELVES OR THROUGH THE MEDIUM OF OTHERS.”

Whether or not the Friars Minor may in any manner receive money by themselves or by any intermediary, or whether or not they may have any use of mony?

It is to be observed that, in the Rule of the Friars Minor, *pecunia* and *denarius* are almost synonymous and accepted for the same thing, and are in no way distinct from each other, unless in this, that the word *pecunia* is a generic term relating to all money, whereas the word *denarius* is specific and relates to a particular kind; for, although every *denarius* is money, all money is not *denarius*. Wherefore they are both used indiscriminately by Nicholas III. and Clement V. in their declarations,

indeed, sometimes they use the word *pecuniae* only, as will be clear to any one who reads the declarations. However, by the word money is not to be understood (1) *whatever may be valued by a sum of money*, because otherwise it would not be lawful for a Friar Minor to receive a habit, breviary, food, etc., which is false and yet all these may be and usually are priced by a money-standard. Nor (2) *anything which is accepted with the intention that it should be sold, disposed of or changed for something else*, because otherwise it would not be lawful for the Friars Minor to accept a legacy of any house, fields, etc., with the intention that they should be sold through competent persons for the necessities of the Friars, which was permitted by Nicholas III., subject, however, to the conditions by which it is lawful to have recourse to spiritual friends, of which we shall speak later. Clement V. decreed the same concerning the acceptance of arms and horses as funeral offerings. Indeed the same Nicholas III., treating on the exchange of movable property which it is expedient to change, ordains that such exchange be made by the authority of the Ministers. It follows that such goods are not money, since from the Rule the Ministers can have no authority regarding the disposition of money. Nor (3) *that which is given in place of money*, because otherwise it would not be lawful for the Friars Minor to receive as a reward for their labors grain, wine, etc., which is false, since this is permitted by the Rule and, indeed, such things are given as a reward for labor in place of money. Therefore, by the word money as used in the Rule, we are to understand coin or paper money issued by public authority to discharge the price of things, or in as far as it is the formal instrument of the

contract of purchase. For money is properly the medium or instrument of the contract of purchase in as far as it is a purchase: for what is properly bought, is bought for a fixed sum of money; if, however, one thing is given for another, it is not purchase but exchange. Now to the question.

I reply that no Friar Minor whosoever, whether General, or Provincial, or Guardian, or subject, may receive money without mortal sin either by themselves or by any intermediary, nor can they have any use of money, not even the simple actual use of it. Nicholas III. so declared, saying: "Not a single one of the Friars has a right to have any money nor to administer or dispense it." So Clement V. held, adding, "since lastly the same Confessor (St. Francis) aimed in the highest degree that those who professed his Rule should be wholly separated from earthly affection and desires and specially from money, and altogether unacquainted with its use, as is proved by the prohibition to receive money often repeated in the Rule." Innocent XI. declared the same in his Bull *Sollicitudo pastoralis*, in which he says: "The Friars are bound to the capital precept of the Religion of the Friars Minor not to receive money by themselves or by any intermediary: for the Friars Minor can have the use, though not the dominion, of other necessary things; of money, however, they can have neither the use nor the dominion: and therefore all handling of money which is not purely natural or which is in any manner pertaining to commerce, whosoever the owner of the money may be, is entirely forbidden to observant Friars Minor, or of the Observance. And therefore each and every dispensation and custom which are to be found contrary to the foregoing, We, by means

of the present letters, on our own accord, with full knowledge, deliberation and plenitude of power, revoke, make void, invalidate and annul." So far Innocent XI. He, indeed, is said to receive money in this way who in any manner accepts it whether by possession or any civil use or by authority. *To receive money by ourselves* is to accept its possession or use immediately and *personally*. *To receive money by an intermediary* occurs when by the authority of any person, another is charged to receive money in his name or by his order, in whatever way to be kept or administered; or when such a person consents or allows such money to be received in his name. The reason is that whatever is done by another in our name or by our authority is held to be done by us.

It follows, *first*, that by reason of matter those Friars Minor sin mortally against this precept of the Rule: (1) who with the authority of a master demand money for spending which is deposited with the Syndic or with another person. (2) Who demand a legal account of the money expended from a spiritual friend or from the Apostolic Syndic. (3) Who allow money to be deposited with them so that they are bound to render an account of it. (4) Who keep the key of chests, or coffers, or boxes, or receptacles where money is kept, even though similar chests, etc., should be in the house of a secular. (5) Who place receptacles in churches belonging to our Order for receiving offerings of money or do not remove them, or who during Christmas time expose vessels, etc., at the Crib for receiving offerings of money, or who do likewise at the holy sepulchres during Holy week or at other times, whether before altars, or miraculous images, or statues, or pictures of the Saints.

(6) Who make collections of money through cities, country towns, etc. (7) Who receive money for the use of others, *v. g.*, that they should give it to another or through another as far as they make known or consider the necessity of a relative or friend. (8) Who lend money which has been deposited for their necessities or cause it to be lent, or who make exchange of it, or consent to give it for gain and interest. (9) Who stow away money in their bags or basket during a journey that they may afterwards give it to a secular to be spent. (10) Who in churches belonging to our Order, consent to money being offered for the Friars, or provide that money be deposited in their cells or in some place without or within the house, from which money they may help themselves at pleasure, or afterwards cause it to be taken by a secular, or even by the syndic. (11) Who permit that money should be placed or concealed in their hood, mantle, basket, sack, etc., so that it may afterwards be spent by others. (12) Who without great necessity or danger to another, carry the money of another from place to place, although it should be wrapped or sealed up in any box, letters, or bag; because this is a civil use of money, for such ones do the same as other messengers or servants. (13) Who permit that money should be deposited with them with the condition and obligation that, if it is lost, it is to be refunded. (14) Who accept checks or notes on which money is to be paid to them. (15) Who receive money wrapped in paper, or in a purse, etc., to say Masses or as a free offering.

It follows, *secondly*, that only in extreme or grave necessity, when it is otherwise impossible to obtain the necessaries for bodily life, is it lawful for a Friar Minor

by himself or by an intermediary to receive money and only for the simple actual use, without dominion or proprietorship over it. Nicholas III. so declares, and this concession and interpretation he deducts from the natural right by which one is bound to preserve his bodily life in any manner whatsoever. I say for the simple actual use only, and without dominion or proprietorship over it, because, in such a necessity, a Friar Minor can in no wise receive dominion or proprietorship over money, because he is incapable of so doing by virtue of the Rule itself, nor can there ever be any necessity for accepting dominion and proprietorship over money, but only the simple actual use. Such necessity for having the simple actual use of money can arise among the Friars Minor in time of persecution, among infidels, Turks, heretics, etc. As, indeed, happens in fact with our Missionary Fathers among heretics, etc., concerning which our Marchant says: "According to this Rule, the receiving of money ought to be regulated and limited to those who go to the countries of heretics to convert them. But let them beware lest they exceed and receive from avarice more than is permitted by natural right and for the conservation of nature, especially where there are already many faithful who are willing to clothe and support them sufficiently." To these words of Marchant, Kerckhove adds: "Let such missionaries see whether or not they could not have a faithful Syndic there; let them see whether or not there is a real necessity for them to buy and receive goods by themselves like the fathers of families, when these things could, for the most part, be done by other persons. Let them see whether or not there is a necessity that they should keep money themselves and

give it to others as if to their domestics to be spent." For neither Honorius III. nor Urban VIII. nor any other Pontiff conceded to the missionaries of the Friars Minor, whether in the Holy Land, or among the Turks, or heathens, or heretics, the simple actual use of money, unless when and as far as urgent necessity compelled it; according to Honorius III. as quoted by Kerckhove. The same must be said in like manner concerning missionaries of the Friars Minor among infidels, concerning the divestment of the regular habit and the wearing of secular clothes, that is to say, only when and as far as the necessity requires, may they take off the habit prescribed by the Rule and wear secular clothes.

It follows, *thirdly*, that those Friars Minor do not sin against the Rule: (1) who handle money merely materially, as far as it is gold or silver, so that from it a chalice, medicine, or like objects may be made. (2) Who touch it merely out of curiosity or who lift it from the ground, so that they may return it to the owner from whose hands it fell in their presence. (3) Who receive money merely materially in simple custody or to carry it from one place to another, not in the nature of money, but simply as it is a thing belonging to a neighbor. Marchant so declares. It is lawful for the Friars Minor in time of war or of an invasion or looting of a city, and *if no scandal should arise*, to allow secular persons to place money in the monastery to be there taken care of; for the money is not preserved as if deposited with a citizen in a business-like manner, but only materially, and as anything in general altogether belonging to a neighbor. In like manner, it is lawful for the Friars Minor to detain a robber or thief fleeing with money taken from a stranger by theft; even to take the money

by force from the thief and to return it unconditionally to the owner, because their actions do not relate to the money in so far as it is money formally, but to what belongs to our neighbor in general. In like manner, it is lawful for a Friar Minor in journeying through a place full of robbers, to accept the purse of a friend and to transfer it materially until the danger has passed. But the Friars should abstain from such acts as far as possible, according to the spirit of our Holy Father St. Francis, who wished that his Friars should abstain from all handling of money even materially. Moreover, care must be taken lest, by any of the above mentioned acts, scandal be given to the little ones who think that all contact with money and the handling of it, is absolutely forbidden to the Friars.

QUESTION II.

To whom does money, sent to the Friars, or offerings deposited with the Apostolic Syndic or some spiritual friend, or bequeathed by legacies, or owed from vows, belong?

It follows from what has been said above, that the Friars Minor are not capable of any dominion either in common or in particular, or of right, or right of use, or indeed even of the simple actual use of money. It may, therefore, be asked who has dominion over or right to the money which is offered immediately by benefactors for the necessities of the Friars Minor, or which is given to the Friars for work, or left them by legacy, or promised them by a vow made to God.

To this I reply, *first*, that money offered for the necessities of the Friars Minor, and deposited with the Syndics or with spiritual friends, remains under the control, dominion and disposition of the donor until it is expended for lawful purposes. If, however, the donors resign the dominion of such money, or if the donors die and the money is deposited with substitutes or with the Syndics: in that case the Supreme Pontiff and the Roman Church assume dominion of the similar money

and administer it through their Apostolic Syndics, with, however, this intention, that it is to be applied in determined necessities according to the intention of the donor.

I reply, *secondly*, that dominion over money which is sent without any specification to be applied in general for all the necessities of the Friars (especially if the name of the donor is not given) is held to be renounced by the one giving it, and the dominion over and administration of the same passes to the Roman Church, that it may be administered in its name by the Apostolic Syndic.

I reply, *thirdly*, that the money remains the property of the donors when it is given or offered by them expressly for a specific determined necessity, *v.g.*, to buy cloth, to make a chalice, etc., for such money remains under the dominion of the donor as long as he lives, until it is expended for the purpose specified. If, however, he should die, this dominion is transferred to the Roman Church; as Nicholas III. declared concerning money of a dead person in the hands of substitutes, that it passes under the dominion of the Roman Church, with, however, this condition, that it is to be applied according to the determined intention of the donor.

I reply, *fourthly*, that money offered to the Friars on account of labor, whether corporal or spiritual (such as for Masses, Divine Offices, preaching, burials, etc.), belongs to the Roman Church and, as such, is to be received and administered by the Syndic. The reason is that such money is given by a just title of reward and compensation under the natural law and is surrendered by the laborers in as far as they are able. Although the Friars Minor are not capable of having money in any manner, they are, however, capable of having the use of

the necessary thing to be acquired by that money (the dominion of which belongs to the Church); the money, indeed, passes into the dominion of the Roman Church as wages due to the poor, and the use of the thing acquired by the money through the Apostolic Syndic, as Procurator of His Holiness the Pope, is given to the Friars for work, according to the intention of the donor.

I reply, *fifthly*, that according to the Bull of Martin IV., which begins *Exultantes*, money which is left by will for the necessities of the Friars, the testator being dead, if the first will should not be changed, belongs to the Roman Church and ought to be converted by the Apostolic Syndic, in the name of the Roman Church, into something necessary and lawful for the Friars. The same is to be said concerning money which is raised from goods whether movable or immovable, left by will to the Friars and sold by the Syndic; the Pontiff gives the reason, saying: "that the Friars should not be defrauded of alms left to them by will and in a manner lawful and proper for their Order."

I reply, *sixthly*, that according to the declaration of Nicholas III., money which is acquired from the sale of movable goods of no use to the Friars, and made by the Syndic, passes to the dominion of the Roman Church to be expended in a suitable manner for the necessities of the Friars.

I reply, *seventhly*, that he who vows to give any sum of money for a convent of the Friars Minor, is not in this respect bound to the Friars, because the Friars on account of their obligations are not capable of having any right to, or use of, money; therefore, neither can they accept it. But he who makes such a vow is bound to God by reason of the vow, to give alms to the Friars in

the manner in which they are able to accept them, and such alms the Friars can accept. In like manner, executors of wills when they are bound to pay any legacy to the Friars, are not bound to the Friars, but to the testator or to him to whom it belongs to carry out similar pious legacies.

I reply, *eighthly*, that the goods of apostates, the simple actual use of which our Order can have, are ceded for the use of the Order and the Friars, because the Pope receives under his dominion all those things of which it is lawful for the Friars to have the simple actual use. The goods, however, of apostates, movable as well as immovable, the actual use of which is forbidden to the Friars, such as money, secular clothes, etc., are not ceded for the use of the Order *per se*, and thence, the Friars ought not interfere in such a matter. The reason is that since the use of these goods is forbidden them, much more is their seizure, administration, etc. I say *per se*, for since such goods ought to be distributed to the poor by the Bishop or persons to whom the right belongs, they (the almoners) can convert them to the use of the Friars or cause them to be so converted, and this they can be asked to do even by the Friars, not, however, by right, but by way of pure alms.

QUESTION III.

Whether or not it is lawful for the Friars Minor to make use of Apostolic Syndics and what are the duties of the latter?

It is to be noted, (1) that because the poverty of the Friars Minor is a real renunciation of all political right to every temporal thing, both with regard to the thing itself, as well as to its use; both in particular, as well as in common, for the sake of God; hence the dominion of all things of which the Friars Minor may have the use is either in the hands of the giver of those things, or in the hands of the Roman Pontiff and the Roman Church. In like manner, the dominion, proprietorship and administration of any money offered to the Friars Minor, for services rendered, etc., is either in the hands of the giver, in so far as he has not himself renounced dominion, or if he has renounced it, then it is in the hands of the Supreme Pontiff and the Roman Church, as stated in the preceding question. Hence the question arises, who, for example, can sell the things, movable and immovable, made useless by the Friars and expend the price received for them for the necessities of the Friars, or who, by means of the money offered to the

Friars, can buy things for their necessities, *v. g.*, cloth for habits, meat or fish for the sustenance of the Friars, etc.? For this the Friars cannot do, since they have no dominion or right in this regard; nor can this be done by other men (except by the owners or those who offer similar things or money when they reserve its dominion to themselves), since these also have no dominion or right in this regard. Hence it is asked: Who therefore can do this?

On account of this it is to be noted, (2) that the Supreme Pontiffs Nicholas III., Clement V., Martin IV., Martin V., and Paul IV. in their Bulls, intending nothing else than the pure observance of the Seraphic Rule, purity and peace of conscience, and that the Friars Minor should freely and quietly conform to the divine will, and wishing that the pious intention of those leaving any offering or gift in their last will to the Friars Minor for the sake of God should not be defeated, decreed that a "Syndic Apostolic" should be appointed for every Convent of the Friars Minor, who acting in the name of the Supreme Pontiff and of the Roman Church, should administer, sell, or exchange, etc., all movable and immovable things, and should also disburse the pecuniary alms, offerings, legacies, etc., for the necessities of the Friars, the dominion and ownership of which is assumed by the Supreme Pontiff, the Vicar of Christ, who is the Father of all and not less specially of the Friars Minor, and by the Roman Church. The power, however, of nominating the Apostolic Syndic for the convents and places of the Friars, belongs only to the Minister General for the whole Order, and to the Provincials or Custodes for their respective Provinces or Custodies, and who also may name more than one

Syndic for each convent. When this nomination or election has been made, the Pope and the Roman Church transfers the authority to the person thus nominated, by which he (the Syndic) can receive and administer in the name of the Pope, the things conceded for the use of the Friars, such as pecuniary alms offered for the necessities of the Friars of which the dominion and ownership belong to the Pope, and can do concerning them what the Pope has commanded and in that manner in which he has commanded; so that the nomination of a Syndic in as far as it proceeds from the Minister General, or from Provincials, or Custodes, is not an appointment which gives him the power he has with regard to the matters above mentioned, but is a mere declaration that the authority possessed by such a person nominated by them, is conferred by the Pope. And thus, as is evident, the Apostolic Syndic, nominated by the Minister General in such a manner and appointed by the Pope, is not or cannot be said to be an intermediary or a receiver for the Friars; because he is neither appointed by the authority of the Friars, nor has he the administration or action about anything of which the right or dominion belongs to the Friars, nor does he perform any action in the name of the Friars, but is appointed by the authority of the Pope himself in whose name and by whose authority he does whatever he does.

With regard to the question, I reply, *first*, that it is lawful for the Friars to make use of Apostolic Syndics, in so far that, in case of necessity, they may have recourse to them as administrators of the Apostolic See and of the Roman Church, and may ask them for the love of God that they would deign in the name of the Supreme Pontiff and of the Roman Church, to satisfy and provide

for the necessities of the Friars by buying and selling, by means of the things or money offered for that purpose, and the dominion of which was renounced by the givers and assumed by the Roman Church. Thus in addition to the notable declarations of the five Supreme Pontiffs mentioned, Innocent XI., the Roman Pontiff who died in the odor of sanctity, used these words: "In like manner, declaring that Apostolic Syndics are not prohibited in the said Order by the preceding, since their use is not a dispensation of the Rule, but a means provided by the Roman Pontiffs, our predecessors, for its more pure observance, whether Syndics of this kind are chosen by the prescribed constitution of Nicholas III. and Clement V., our predecessors above mentioned, or according to the dispositions of the constitution of Martin IV., Martin V., and Paul IV., of happy memory, also our predecessors, in so far as their use shall be approved in individual families, congregations, reforms, or provinces of the aforesaid Order respectively." This Bull was renewed, confirmed and embodied in his constitution by Innocent XII. The reason for this is clear, namely, because as it is lawful for the Friars Minor, according to their Rule, to have recourse to spiritual friends to meet their necessities or to those offering or giving necessary things to the Friars, that these may, for the love of God, procure such necessaries for the Friars by the payment of money of which they are the owners (because it is to be presumed that such spiritual friends or donors have not renounced its dominion). Therefore, it is also lawful for the Friars Minor to have recourse to the Pope for assistance in their necessities, or to his substitutes, namely, to the Apostolic Syndics, so that they may, for the love of God, procure what is

necessary for the Friars from the money or goods offered to the Friars, the dominion of such offerings having been renounced by the donors and having been assumed by the Pope and the Roman Church.

I reply, *secondly*, that the duties of the Apostolic Syndic, as constituted by the Roman Pontiff for the convents and places of the Friars Minor, are four. His *first* duty is that he may *in the name of the Pope and of the Roman Church*, accept, transfer, sell, divide, etc., movable and immovable goods offered to the Friars (the dominion of which has been renounced *a se* by the donors and assumed by the Roman Church), when goods of this kind cease to be useful or necessary for the Friars. He can also receive money for, or the price of, the things sold or divided in the manner described and can expend the same for things which are useful, lawful and necessary for the Friars.

The *second* duty of the Apostolic Syndic is that he should *in the name of the Pope and of the Roman Church*, receive all legacies or alms left by will for the necessities of the Friars, whether of money or of movable or immovable goods, to convert them for the utility of the Friars, as far as it may be lawful for the latter, according to the Rule or the declaration of the Rule, "in such a way and when he be requested by the Minister General or by the Provincials or by other Friars with the consent of their Ministers."

The *third* duty of the Apostolic Syndic is that he can *in the name of the Pope and of the Roman Church*, ask for, demand, transfer, dispose of, protect, etc., with pertinacity, both in and out of court, the aforesaid legacies and alms, whether in money or in movable or immovable goods, left by will for the necessities of the

Friars, as well as defend the immunities, liberties and privileges of the Friars (to the exclusion, however, of all agreement, cooperation or assistance of the Friars, and to the avoidance of scandal).

The *fourth* duty of the Apostolic Syndic is that *in the name of the Pope and of the Roman Church* he should disburse for the necessities of the Friars all movable and immovable goods, pecuniary alms offered, left or bequeathed for the use of the Friars, or given them for services rendered, when and in such a manner as he may be requested by the Minister General or by the Provincials or by other Friars with the consent of their Ministers. He can act likewise regarding the transfer and protection of all the foregoing things, both in and out of court, as well as with regard to the immunities, liberties, and privileges of the Friars (to the exclusion, however, of all agreement, cooperation or assistance of the Friars, and to the avoidance of scandal).

From these things it follows, *first*, that since the Pope and the Roman Church do not assume the dominion of movable, or immovable things, or of pecuniary alms, which (dominion) the donors reserve to themselves, it follows that such donors, since they have entire dominion over their goods, can administer them by themselves or by anyone substituted by them, until they are expended for the use of the Friars. If, however, the donors, reserving to themselves the dominion of their goods offered to the Friars, do not themselves wish to nominate any substituted person, but wish such a one to be nominated and presented by the Friars, then Martin V. decreed that the Friars should nominate no one else to expend such money than the Apostolic Syndics, to whose care the other affairs of the convents are

confided, and who, therefore, administer such money not as Apostolic Syndics, but as substitutes of the donors. But in a case in which the donors renounce the dominion of their money and that the same is assumed by the Pope, it belongs to the Pope himself to nominate substitutes and, for this reason, if the Friars nominate any one else than the Apostolic Syndic, they really sin against the Rule not less than when they insist on sending to the Syndic a donor who, retaining the dominion of his money, wishes it to be expended for the necessities of the Friars by himself or by others than the Syndic.

It follows, *secondly*, that, according to the declaration of Nicholas III., the Pope and the Roman Church do not receive goods or money given to the Friars for superfluity, wealth or treasures. Hence neither Martin IV. or V. nor Paul IV. received dominion of pecuniary alms or of all things howsoever offered to the Friars, but of *those only which were offered for past, present or imminent necessity really existing*, whether given through liberality or for manual or spiritual labors of the Friars, or by will, or legacy, etc.; for unless such necessity exists, the Pope does not receive these goods or money under his dominion, and thence neither can the Syndics receive them in the name of the Pope nor can the Friars allow them to be kept or have recourse to them; and thence the Apostolic Syndics ought to be instructed that their authority is greatly restricted by the Supreme Pontiffs to conform to things allowed by the Rule of the Friars, to which all superfluity, abundance, treasures, etc., are evidently contrary. From this it also follows that the Syndics are to be admonished that it is not lawful for them to let out the pecuniary alms deposited with them for the necessities of the Friars on

rent or on interest in favor of the Friars or the Syndics themselves, and in like manner that it is not lawful for them to lend such pecuniary alms to others, give them as security, or to apply them to their own use, nor can the Friars give their consent licitly or validly to this or similar things. The Syndics should also be instructed that if anything given or offered for the utility of the Friars ought to be demanded, protected or disposed of by law, they should do this in the name of the Supreme Pontiff, or of the donor only, *and in nowise either directly or indirectly in the name of the Friars, or by assuming their authority, assistance or cooperation in court for a lawsuit, which would create scandal.* The Syndics are to be further instructed, that when they give receipts they should give these in their *own name*, as administrators of the Pope and of the Roman Church and as Syndics Apostolic, *and never taking the name of the Friars*, although they can write that they received such alms for the necessities of the Friars. *Lastly, the Apostolic Syndics should be warned that if they contract or bind themselves for anything concerning the Friars, they ought to do so not in the name of the Friars, but in their own name and by the authority of the Holy See.*

It follows, *thirdly*, that, if any perpetual alms, v. g., for saying Masses, or *gratis*, are bequeathed or intended for the Friars to be paid yearly, the Apostolic Syndic cannot claim them in Court, even if the Masses were celebrated by the Friars. The reason is that while similar legacies have been left to the Friars, they must protest that they receive the same without incurring any civil obligation and by way of pure alms. Therefore, if the heirs or executor, after a lapse of time, would not give the alms anymore, the Syndic cannot sue them on

that account, but then the Friars would not be obliged to celebrate the requested Masses, or the annual Offices any longer.

It follows, *fourthly*, that, although Martin IV. and Paul IV., as stated above, decreed that the Syndic Apostolic should, in the name of the Roman Church, disburse things left or offered to the Friars and the value of things and other alms, for the utility of the Friars when and in such a manner as may be required by the Minister General, or by the Provincials, or by other Friars with the consent of their Ministers, this is neither contrary to the Rule nor to the declarations of Nicholas III. and Clement V. For this request is not authoritative or judicial in the nature of a command, order, or ordination, but is *merely consultive and directive* by way of humble instruction and prayer, so that namely the Syndics who do not know our Rule or the needs of the Friars so exactly, may not by their management stain the consciences of the Friars, their state of poverty and the Rule, but conforming themselves to the Rule and the state of the Friars, may serve the pure and holy intention of the Supreme Pontiffs (*of whom they are the substitutes*). But that the Syndics are obliged to do with the alms of the Friars as the Superiors by means of humble prayer ask of them, does not arise from the fact that the Superiors so demand, but only from the fact that the Pope as master of the alms given to the Friars, thus commands his substitutes, namely, his Apostolic Syndics, that they should do as the Superiors of the Order require.

It follows, *fifthly*, that the Provincials can name one or more Apostolic Syndics for every convent, residence, or place of the Friars, and for reasonable causes can

recall such nominations or declare the Syndic to be discharged from his office, and name or substitute others.

It follows, *sixthly*, that the institution of Apostolic Syndics, made by the Supreme Pontiffs, and the duties ascribed to them are not contrary to the purity of the Rule of the Friars Minor nor a dispensation from the Rule, but a means provided by the Apostolic See for a purer observance of the Rule. This is evident from the fact, first, that Paul IV. and Innocent XI. expressly so asserted and attested, and secondly, that the Supreme Pontiffs, *as Fathers of the Friars Minor in a special manner*, are able to assume and did assume dominion of all things offered for the needs of the Friars (of which the donors had renounced the dominion), *and this for three reasons*: (1) because as Nicholas III. says: "There is no person to whom it is more meet that the dominion of such things should be transferred than to the aforesaid (Apostolic) See, or to the person of the Roman Pontiff, the Vicar of Christ, who is the Father of all and no less specially of the Friars Minor." (2) "Lest," as the same Pontiff says, "such things should seem to be under uncertain dominion." (3) "That the avarice of heirs might be frustrated by legitimate means and the poor Friars themselves not defrauded out of timely assistance:" Nicholas III. so declared a second time. And consequently the Supreme Pontiffs can so dispose of, and regulate, according to their good pleasure, regarding the things offered for the needs of the Friars, that through their substitutes, namely, the Apostolic Syndics, such things can be sold, divided, exchanged, or restored, in or out of court, in the name of the Apostolic See and of the Roman Church, and can be disbursed and exchanged for the needs of the Friars, provided that the Friars do not

have recourse to them unless they have some real past, present, or imminent need, and that the Friars do not in any wise meddle in the administration of the money, or in any contracts, either by authority, or ministry in or out of court; nor give legal receipts for money received, although they can attest that money given for the needs of the Friars has been received by the Syndic.

The Rule continues :

“NEVERTHELESS, THE MINISTERS AND CUSTODES, AND THEY ONLY, SHALL TAKE SPECIAL CARE TO PROVIDE FOR THE NECESSITIES OF THE SICK, AND THE CLOTHING OF THE OTHER FRIARS, THROUGH THE MEANS OF SPIRITUAL FRIENDS, ACCORDING TO THE PLACES, SEASONS, AND COLD COUNTRIES, AS THEY SHALL SEE TO BE EXPEDIENT FOR THE NECESSITY; THIS ALWAYS EXCEPTED, THAT, AS BEFORE SAID, THEY MAY NOT RECEIVE MONEY.”

QUESTION IV.

What is it to have recourse to spiritual friends, and to whom of the Friars Minor is such recourse permitted?

It will have been noted (1) that our holy Father St. Francis, by the first text in the fourth chapter of his Rule, prohibited his Friars from all use, even the simple use, of money. All the needs of the Friars cannot, however, be met without money. Hence it is that St. Francis, by the second text in the fourth chapter of the Rule, ordains and prescribes a special means of providing for the needs of the Friars, *through spiritual friends*, by means of whom payment of money for the said needs is made without the Friars receiving the money in any manner. By a "spiritual friend," according to the Rule, is only to be understood one, who from love of God or good will towards the Friars, either voluntarily or on being asked, gives money to meet the needs which ought to be paid for by the money, whether he be the donor, or a substitute for the donor, or a trustee or messenger of the substitute. From this it is evident that the Syndic Apostolic, by virtue of his office, is not a spiritual friend of the Friars according to the Rule. The reason is that the Syndic Apostolic is appointed by the Pope, and performs all his duties above mentioned,

and administers, sells, etc., the things given, offered or bequeathed to the Friars in the name of the Pope and of the Roman Church. A spiritual friend, however, is not appointed by the Pope, nor does he pay money in the name of the Roman Church, but gives his own money in his own name to meet the needs of the Friars for the love of God or of the Friars. The Syndic Apostolic is sometimes also a spiritual friend of the Friars, either when he gives his own money to meet the needs of the Friars, or when he is a substitute of persons giving money for the needs of the Friars (which persons still retain their dominion over the money), and expends such money for the needs of the Friars. It is, however, to be specially noted, that a spiritual friend is not an intermediary, through whom, by the Rule, money is forbidden to be received. The reason is, he is said to be an intermediary who should receive money in the name of the Friars and expend it by their authority and pleasure. But a spiritual friend, whether he may be the donor or the substitute or trustee, in no wise receives money in the name of the Friars or expends it by their authority or pleasure. Therefore, a spiritual friend cannot be said to be a person interposed by the Friars.

It is to be noted (2) that, according to the Rule, recourse to spiritual friends is nothing else than the actual provision for the payment or purchase of necessary things, in as far as it must be done with regard to money by persons who are capable. I say (1) *actual provision*, in order to exclude paying and buying which is made by no requisition of the Friars, *v. g.*, if any benefactor of his own accord and devotion should say to the Father Guardian, "I wish to pay for all the medicines

which you receive for the sick, or all the wine you use during the year for Masses, etc.,” this would not be recourse to spiritual friends; because it is not a provision but a mere acceptation of a voluntary present. I say (2) *payment or purchase*, because when the Friars beg bread, butter, candles, etc., although the donors buy (for them) or send them to the venders, the Friars do not then have recourse to spiritual friends, as it is understood by the Rule, but to pure begging, for begging is nothing else than the procuring of a thing (*money excepted*) in its own species, without having regard as to whether the donor is in possession of the thing, or whether the donor acquires it by money, which is by accident. But recourse to money through spiritual friends includes the intention of payment and purchase, that it may be done by them by means of money. In like manner, if a citizen should say to any Friar Minor who had worked in his vineyard or garden, that as a recompense for his labors, he should accept for himself and his brethren meat at the market, or cloth at a merchant’s, to the value of ten florins, this would not be considered as recourse according to the Rule, but purely as an acceptance of the recompense of labor; nor should the Friars entertain scruples as if they had received money, for it is one thing to accept the value of one florin in any species, and another thing to receive the florin.

To the question I reply that from the exact wording of the Rule, only the Ministers and Custodes may have recourse to spiritual friends for the due payment in money of necessaries. From the sense, however, and the intention of St. Francis, such prouration may be commissioned both to the Guardians and to others.

Nicholas III. so declared. Wherefore, such procuration is committed to the Guardians only as Prelates, and in their absence, to the Vicars *ex officio*, and sometimes to other Friars by special commission of the Superior. This is the opinion of all expositors. Care must be taken, however, that this charge is not committed to individual Friars without grave cause, lest they should be given a proximate cause of transgressing. If, however, the Ministers and Custodes, or Guardians, should not provide for the needs of the Friars, they sin mortally, as Clement V. declared. And if there should be real needs, and there should be notable negligence on the part of the Prelates, the Friars can, without sin, provide for themselves through recourse to spiritual friends by observing the modification of the declarations.

From these things it follows that, in order to have recourse to spiritual friends, it is not necessarily required that a Friar Minor should say to a spiritual friend, "Buy me these images or rosaries, etc.,," but a Friar Minor recurs to a spiritual friend for the purchase to be made by money when by means of implicit words he seeks to induce the spiritual friend to buy or sell this thing or that for the Friar, *v. g.*, if a Friar says to any patron: "See, in this place or in this house pretty images, rosaries, medals, etc., are sold, I would gladly have some of them," thinking implicitly and by concealed words to induce the patron so that he should buy similar images, rosaries, etc. Such a Friar recurs indirectly to a spiritual friend for pecuniary purchase. In like manner, a Friar Minor seeks from a benefactor any article in specie, *v. g.*, one hundred images, but as the benefactor has not the desired article in specie, he says to the Friar: "Would you prefer that I buy this

thing which you ask, or give the money to another to buy it for you?" If in such a case the Friar assents by words either implicitly or explicitly, then he is held to recur to spending money through spiritual friends. It would be otherwise, however, if the good friend should, of his own accord, say to the Friar: "Wait a little, I will go and buy three florins worth of images for you." The Friar can then wait until the aforesaid images are bought, and can licitly receive them, because he does not recur to money, but accepts alms from a benefactor buying and offering it of his own accord and without any requisition of the Friar.

QUESTION V.

When and for what necessities can the Friars Minor have recourse to spiritual friends to make pecuniary payment?

It should be observed that, in the Rule, our holy Father St. Francis specifies only two necessities for which recourse can be had to spiritual friends. This is evident from the text of the Rule: However, for the necessities of the sick and the clothing of other Friars let the Ministers only and Custodes take a solicitous care. But under these two necessities expressed in the Rule, all the other necessities of the Friars of a similar nature are to be understood. Clement V. so declared in express terms. It may, therefore, be asked of what kind and how great must the necessity be, for which it is lawful to have recourse to spiritual friends for procuring pecuniary payment?

I reply that, according to the Rule and the declarations of the Supreme Pontiffs, a necessity for which it is lawful to have recourse to spiritual friends for obtaining things through the payment of money, ought to have five conditions, which we shall forthwith set forth and explain.

THE FIRST CONDITION

is that the necessity should be real. A necessity is real when the thing to be procured is so necessary that a particular person or community cannot do without it, except with some loss to the greater spiritual or temporal good. Moreover, this necessity need not be *absolute* or *extreme* or *strict*, but it is required and suffices that the necessity be *reasonable* and *proper*, namely, that it be deduced and determined with caution and deliberation from the circumstances (1) of *Persons*, as, because a Friar is sick, aged or weak, or because he has filled the higher offices in the Order and has more wants than others, or if he is a secular person or a benefactor of the Order, we are bound from charity and gratitude to show him becoming hospitality; (2) of *Places*, for a place induces the necessity of recurring to spiritual friends because it is unhealthy, or a severe climate, etc., or because it has stingy and ungracious inhabitants who do not give alms in kind, or because the convent requires repairing or the church needs ornaments, etc.; (3) of *Times*, because the needs of the Friars are greater in times of sickness than in time of health, in winter time than in summer time, in times of fasting than at other times in which meat is eaten; (4) of *Occupations*, for those who are continually fatigued by travelling, require more and better things than those who remain quietly at home. In like manner, those who are daily engaged in weighty studies, in preaching or in teaching, require more and better things than those who are not similarly employed, besides countless other similar cases which are to be determined by prudent judgment, and on which the solution of many doubts depends. That *reasonable* and *proper* necessity

is required and suffices to allow recourse to spiritual friends, is evident from the words of the Rule, which, after limiting the necessity, *according to the places, seasons, and cold countries*, adds, *as they shall see to be expedient for the necessity*. Necessity, however, which is left both to the judgment and the opinion of those concerned, and to expedience, is not strict and rigorous, but proper. Moreover, since proper necessity refers to the use, and the use is twofold, namely, strict and moderate, it is to be observed that the strict use obliges the Friars only in those things which are explained in the Rule, as in the poorness of garments, the fewness of tunics, the absence of shoes, etc. The moderate use obliges in other things which are not strictly explained in the Rule, according to St. Bernardine, who says: "The Friars are not bound to any strict use of things, except so far as is particularly explained in the Rule, as is sufficiently evident by the declaration of Clement V., § *Ex praemissis*; and what is more, it is clear from the declaration of Nicholas III., § *Porro*, that, according to the Rule and by all manner of truth, the moderate use of things for the sustenance of life and for the discharge of the duties of their state (save what is said about money) is conceded to the Friars."

From this it follows, *first*, that, since the Friars are bound by the Rule to be clothed in poor garments, they cannot have recourse to spiritual friends for fine and expensive cloth, etc. In like manner, since the Friars are prohibited by the Rule the use of superfluous, curious and precious things, it follows that they cannot, without sin, have recourse to spiritual friends in order to procure such things. If, however, there is a real necessity for having recourse to spiritual friends, *v. g.*; for

food or drink, the Friars can, without sin, leave a cheaper thing to have recourse to something more expensive, *v. g.*, by leaving vegetables for meat, by leaving beer for wine, by leaving bacon to furnish chicken. The reason is that the Friars are not bound by the Rule to the stricter use in eating and drinking, and, consequently, although the Friars can sustain life on bread, water, vegetables, etc., they are not bound to do so, but can satisfy their necessities by more excellent food and drink, provided that they remain within the limits prescribed by the Rule regarding the use of things. Otherwise it would follow that the Friars could not have recourse to spiritual friends for sustenance, except for bread and water, because, strictly speaking, one is able to live on these. Neither could they have recourse for clothes except for the poorest cloth, which is contrary to the sense of all expositors, who affirm that poorness does not consist in one thing.

It follows, *secondly*, that decision concerning the quiddity, quality and quantity of the necessity, on account of which it is lawful to have recourse to spiritual friends, remains in the hands of the Ministers, Custodes, and Guardians. This follows from the text of the Rule which says: as it may seem to them expedient for the necessity; and also from the declarations. St. Bernardine teaches the same, writing: "In all doubts which cannot be settled with certainty, the subjects are bound to abide by the decision of their Prelates, and, therefore, those acting otherwise are transgressors of obedience, and should be well chastised by the Superiors by ecclesiastical censure or other suitable punishment."

THE SECOND CONDITION

is that the necessity should be past, present, or immediate, and not merely a future one. Necessity is said to be *past*, when payment is sought through spiritual friends for things already bought or acquired. *Present necessity* is the lack of a thing in the present, so that no time is left for expectation, and hence Nicholas III. calls it “necessity which occurs for the time being.” *Imminent necessity* is that which already appears near, as if it had begun to exist, or if it can be foreseen that it will certainly come to pass in a short time. Necessity is said to be *imminent* in two ways: (1) when, although not as a whole, nevertheless it has commenced to exist in part, *v. g.*, if a wall begins to fall and the convent is threatened with destruction, or if the food necessary for the Friars begins to fail; (2) when, indeed, it has not yet begun, but is nevertheless certain to happen, especially if the procurement requires any length of time, as (according to Nicholas III.) when books are to be written, or when buildings are to be erected to live in, or when cloth is to be purchased in distant places. *Necessity, however, is said to be a future necessity only either when no certainty exists that it will come to pass, or not until after a length of time,* in which case it can be provided for at the moment that it arises, or, at least, in a short time. I say *when no certainty exists that it will come to pass*, because it can either come to pass or not come to pass, can happen or not happen, as, for instance, if any one should procure money to be deposited because any one might perhaps be ill, or because war or famine are feared. I also say *or not until after a length of time*, for, when the procuring of a thing does not require any space of time, but can be obtained in a short while,

then it is held to be merely a future necessity, and he who permits or procures money to be deposited for such a necessity, sins mortally according to the gravity of the matter. Thus sins he who in the preceding year procures money to be deposited so as to provide that in the following year food will be bought for the Friars. Moreover, that the Friars are not allowed to have recourse to spiritual friends for *merely future necessity*, is evident from the Rule itself, which prescribes that the Friars shall have recourse to spiritual friends for real necessities. A merely future necessity is not, however, a real necessity, but only either can be, or will be one.

From this it follows that necessity, for which it is lawful to have recourse to spiritual friends, ought to be determined in itself; otherwise it cannot be said to be a real past, present, or imminent necessity in particular and *in se*, but only a future necessity, foreseen confusedly and, as it were, yet to be determined. It is not, however, necessary that *it should be determined in the minds of the Friars procuring*, for provided real needs exist, it is not necessary that the one procuring should limit himself to one, seeing that there are many, *v. g.*, the Guardian needs cloth, wine, linens, medicines, food, the restoration of buildings, etc.: it suffices that it be apprehended in general that real necessities exist, although one does not limit himself to one or the other, because they are various, nor can all so determined be thought of. Nicholas III. calls money deposited for similar necessities *indifferent alms*, not that they are indifferent as alms simply, but with regard to this or that necessity in particular. It follows that those sin against the Rule, who permit or procure money to be deposited indifferently, where the necessity is not determined in

itself, so that they may afterwards study how to spend it. Wherefore they at length devise new edifices, or changes or enlargements in old ones, superfluous ornaments, etc., so that they may leave a mark behind them.

THE THIRD CONDITION

is that at the time in which recourse is had to spiritual friends, indifferent alms, from which a payment for the necessities could be made, should have ceased. In general, alms cease in three ways: namely, (1) when as a matter of fact there are none; (2) when, even if there are some, the same have nevertheless been determined for certain other necessities; (3) when, even if indifferent alms have also been deposited, there are, however, other necessities which must also for the time be met by the expenditure of these. Hence those sin who have recourse to spiritual friends when alms have not ceased in the foregoing ways. Those, however, sin more grievously who, although they already have alms determined for some necessity, nevertheless still allow or procure pecuniary alms to be deposited for the same necessity, or who, as it were, refund by a subsequent procreation the payment of a thing, *v. g.*, windows, or chasubles already made before. As for the rest, where there are many necessities all real, whether past, present, or imminent, and for which sufficient money is not deposited, the Superior can see to it that the former or the latter are satisfied by means of the alms deposited, and for the rest, for which the alms do not suffice, recourse can be had to spiritual friends. When, however, more urgent necessity arises, *v. g.*, if a sick person needs medicine at once, the Superior is bound to get it immediately out of the alms deposited.

THE FOURTH CONDITION

is that the things procured through spiritual friends are not to be conveniently obtained by begging. A thing is said not to be conveniently obtained by begging when it cannot be begged except with great distraction, running about, indevotion or detriment to spiritual good. On the contrary, a thing is said to be conveniently obtained by begging when it can be obtained by humble solicitation, without any serious inconvenience. When, therefore, a thing can be conveniently obtained by begging, it cannot be procured by money through the medium of spiritual friends. The reason is that there is no real necessity for having recourse to spiritual friends when the thing can be had conveniently by other means. In like manner, and for the same reason, recourse cannot be had to spiritual friends when the thing can be conveniently obtained by a voluntary offering, or by labor

THE FIFTH CONDITION

is that the necessity should pertain to the Friars, and not to others. A necessity of the Friars, or a proper necessity and not that of others, is said to exist either *on the part of the Friars personally, or on their account or behalf, and not on the part of世俗s or of persons of another state.* The reason is that what is the necessity of another, is not our necessity; but the Rule says that it is lawful to have recourse to spiritual friends *for the necessities of the Friars.* It is not lawful, therefore, to do so for the necessities of others. By *Friars*, however, are understood not only those who are subjects of, or belong to, the community of the Superior who procures alms, but also guests who are visiting them, or any Friars of the Order who in any way rely on our care or charity.

I say "either on the part of the Friars personally or on their account or behalf," because what is necessary on account or behalf of the Friars, ought to be called a proper need of the Friars, and not of others, *v. g.*, if a secular engaged, out of charity towards the Friars, in the work of the convent, falls from a ladder and is seriously injured, the Superior of the convent can have recourse to spiritual friends for payment of the surgeons and medicines, because such a necessity arises on behalf of the Friars, as Marchant says, adding "that the obligations of the natural and divine law cannot be annulled by the Rule." Hence, if a beggar in urgent need, and whom no one would help, should come to a Friar Minor, the Friar could aid him through benefactors and their alms, even the pecuniary alms, and such a Friar could take care to provide for the pauper by means of alms, even pecuniary alms, procured and collected for the love of God, provided that the Friar Minor by no means receives them either for use or authoritative disbursement, or outside the limits of obedience. In like manner also a Friar Minor is bound by the natural and divine law to aid his parents in grave existing necessities, as well as to work for the payment of debts contracted in the world, etc. A Friar Minor is not, however, bound to this by his Rule, because such a necessity does not properly belong to the Friars, but to others.

QUESTION VI.

What method is to be observed in having recourse to spiritual friends and the Apostolic Syndics, regarding cash payment for the necessities of the Friars?

It is to be noted that the Friars Minor can, for the cash payment of their necessities, have recourse either to *spiritual friends*, so that, for the love of God, the latter in their own name, and by means of their own money, will by themselves, or by their substitutes, provide for the necessities of the Friars, or they can have recourse to the *Apostolic Syndics*, so that they, in the name of the Pope and of the Roman Church, will help to pay for the necessities of the Friars from the money offered to the Friars by gifts, legacies, or given them for work, etc., and the dominion and administration of which has been assumed by the Pope and the Roman Church. Now it is asked what method ought to be observed in having recourse to spiritual friends and to the Apostolic Syndics for the cash payment for the necessities of the Friars?

I reply that the method to be observed in having recourse to spiritual friends, or to the Apostolic Syndics,

dics, for the cash payment for the necessities of the Friars is as follows:

1. That he who recurs to them *must be superior* by whatever name he is finally called, whether Minister, Custos, Guardian, *Praeses*, or Vicar, in the absence of the Guardian, or at least a subject either expressly or presumably commissioned by the Superior, or in case the Superior would be notably negligent in procuring the necessaries.

2. That he who recurs ought necessarily to pay attention (and this whether in regard to pecuniary alms left, or freely given, or asked) that there should be a *true necessity, past, present, or imminent, for the thing for which recourse is had, and that it be a necessity of the Friars own, and that indifferent alms have ceased, out of which payment could otherwise be conveniently made, and that a thing of this kind could not be obtained conveniently by begging*. For, if one of these conditions is lacking, it is not lawful either to seek pecuniary alms, or to receive legacies, or gifts, or allow them to be deposited. From this it follows that the Friars who are subjects cannot, with a safe conscience, ask anything of the Superior which is to be procured by means of money through spiritual friends, of which he does not stand in real necessity, nor can such a thing, procured by means of money, be used unless real necessity exists for the same thing; for, if the Superior cannot, with a safe conscience, procure anything by means of money unless for a real necessity both of his own and of his subjects, it follows that neither can the subjects, with a safe conscience, ask the Superior to procure anything by means of money unless it is a thing really necessary; nor can such a thing, so procured, be used with a safe conscience, unless in and for real necessity.

3. *That he who recurs should beware, lest knowingly he allows more to be deposited than the necessity requires.* If, however, more should be deposited he would have no right or use to the remainder without the fresh consent of the donor, bat he should return to the donor what is left.

4. *If the necessity can be easily provided for through the spiritual friend himself, or the donor, and if he wishes it, the one recurring is by no means permitted to place it in other hands.* If, however, the donor wishes to deposit or to make the payment through another, if he has knowledge of a faithful person through whom the necessity can be relieved, and wishes to employ him, the Friars should by no means present another; whence also they should not bring anyone with them with this end in view. If, however, he has no knowledge of a person, or certainly wishes to provide for the necessity through another person more intimate with the Friars, such a person can be presented and nominated by the Friars. If the necessity demands a lapse of time, and the money should pass through many hands, this may be done by the express or interpreted consent of the donor.

5. *A Friar Minor having recourse for necessities to be provided for by money is not bound to specify exactly the needs of the Friars,* for if there should be many necessities, or if the providing for many necessities is made with the same creditors, it is sufficient to insinuate in general that there are more necessities, and ask that they be provided for.

6. If pecuniary alms are limited by the giver to a certain person, or to a certain place, or to a certain necessity, they cannot be applied to another person, place, or necessity, either by a substitute or by the

Friars, without the express or implied consent of the giver. This is plainly evident from the declarations of the Pontiffs. It is to be noted, however, in order that alms may be held to be limited to a certain convent, that it does not suffice that they should be asked by the Friars of such a convent, but it is required that they should be expressly and precisely given for the Friars so asking. The reason (as Corduba well teaches) is that the Friars do not ask for alms, except according to the wills of the Superiors, and the donors do not intend to give alms except for the intention of the Friars asking, and the Superiors do not wish alms to be asked by the Friars otherwise than for their convent, or if it does not need them, for other convents of the same Province, the alms to be transmitted with the consent of the Provincial. And from this it is evident what is to be said concerning those who beg grain, oil, wool, linen, etc., in such abundance that they have not only sufficient for themselves, but are also able to share with other convents in supplies sufficiently great. For it is answered that the Guardians and Friars can, with the express or tacit consent of their Ministers, beg such things, not only for themselves, but also with the intention of sharing them with other convents, and, as a consequence, can share with them according to the aforesaid consent. Nor should doubt or scruples arise in this regard concerning the intention of the donors, because these things are often given as a recompense for work, preaching, hearing confessions, for offices, etc., and therefore are left to the free disposition of the Superiors.

7. If any friend should say to a Friar Minor: "I am ready and wish to expend one hundred florins for your necessities whenever you shall need it," the Friar Minor

is then allowed to accept this pecuniary alms because in this manner he neither accepts the money nor has recourse to the friend, but only receives kindly this wish without any obligation. If, however, any friend should say to a Friar Minor: "Here are a hundred florins which I assign and offer you for your necessities," it would not be lawful to have recourse to this voluntary gift, except in the event of real necessity, and then only as for voluntary alms.

8. *That it is not lawful for a Friar Minor to have a bursar or a spiritual friend with him on the road,* that is, one who carries or administers the purse of the Friar, because such a bursar would really be an intermediary of the Friar both in the reception as well as in the administration of money, against the evident prohibition of the Rule. It is lawful, however, for a Friar Minor (real necessity, present or imminent being supposed, and all the conditions, in the preceding question required for having recourse, being placed and scandal being excluded) to have a spiritual friend with him on the road whether such a one should be the principal donor or his substitute who in his own name, or that of the donor, expends the pecuniary alms and to whom recourse is had. The reason is clear for if at home in the convents (the necessary conditions being fulfilled) it is lawful to have recourse to a spiritual friend for the payment for the necessities of the Friars, why should this not also be lawful on the road?

9. It is not lawful for the Friars to procure the making of pecuniary collections through persons deputed or chosen by them, or to accompany any persons collecting pecuniary alms for the Friars, much less to collect pecuniary alms by themselves. The reason is that

even if the Friars should so act in such a matter as to have no right to the money, an act of this kind would nevertheless show badly and have the appearance of evil: (1) because persons would be presented to the donors by the Friars to receive the money without the will of the individual donors being consulted; (2) because they would receive or permit any sum of money to be placed indifferently; (3) because by reason of this accompanying they might seem to pretend something with this money and the money collected might be thought to be not only for the necessities of the Friars, but also in their name; (4) because they could not make the required protestations and, therefore, all such things are to be altogether avoided. Therefore also Clement V. says: "And thus all quest of money and acceptance of pecuniary offerings, be it in churches or anywhere else, boxes and receptacles for the deposit of monies by donors or benefactors; also all recourse to money or having it otherwise than as conceded by the aforesaid declaration (namely, that of Nicholas III.), all this, I say, is simply forbidden to them." From this it follows that boxes and receptacles should be removed and collections and money offerings excluded *from our churches*, for even if they be not for us, or are made by our intervention, nevertheless, because they are made in our places even for confraternities, many may be scandalized, which we have to prevent.

10. When, from place to place, the Friars collect or beg things which are used in kind as candles, butter, etc., and secular men accompany them to carry their burdens or to point out the houses to them, it is not lawful for the Friars to consent that those persons who have not the things in kind should give money to the

men accompanying them to buy the aforesaid things, unless the things are altogether necessary in that quantity that recourse ought to be had for them by means of money. In such a case, it would be lawful for the Friar begging to say that he is begging candles, butter, etc., not money, but that it is in the power of the donor to provide it in whatever manner and by whomsoever he wishes; if a person, well informed, should then give to the other, the Friars are not contaminated if, moreover, all cause for scandal be removed. Wherefore it is also lawful for a Friar Minor begging to ask the one offering that he should pay the man accompanying him for his labor, provided he is well informed that it is for the labor of the man accompanying him, and not for the Friars. The reason is, because I suppose it is necessary to pay the man for his labor: therefore, it is also necessary to have recourse for such payment to the friend offering.

11. It is not lawful for the Friars Minor to borrow money with the legal obligation of repaying it, as Nicholas III. expressly declared. It is, however, lawful in the event of necessity and when other pecuniary alms have ceased, for a Friar Minor to tell a friend that he might pay in the meantime for something of present necessity, and that he will faithfully attend to it that an equivalent amount of money will be refunded to him by another spiritual friend: because a *twofold* recourse to spiritual friends is lawful in case of necessity; *first*, for the payment of the thing anticipated, and, *secondly*, for the payment of the payment anticipated.

12. The Friars Minor, in having recourse to spiritual friends for obtaining the payment of their necessities by means of money, ought to show from their

heart, by their words, appearance, and in all other circumstances that they have no right at all to the aforesaid money and this they ought also to manifest in as far as they honestly can to the spiritual friends and Apostolic Syndics, and should always humbly ask the spiritual friends and Syndics, for the love of God, that they would please provide for their necessities by the payment of money. Nor can the Friars institute a prosecution, in or out of court, against the spiritual friends, or the Apostolic Syndics, or claim any other right howsoever the aforesaid person may act in a trust of this kind (namely, of pecuniary alms). It is, however, lawful for the Friars to insinuate and specify their necessities or to explain them to the person aforesaid (that is, to a spiritual friend or to the Syndic), and to ask him to pay for them. They can also exhort and induce the same person that he act faithfully in the matter intrusted to him, and should look after the salvation of his soul in the execution of the same, in such a manner, however, that the Friars abstain entirely from all administration or distribution of the same money and from all prosecution or action against the aforesaid person.

From this exposition of the fourth chapter of the Rule it is evident, that this fourth chapter contains two precepts obliging under mortal sin. The first is that the Friars in no manner receive money or pecunia, either by themselves or by any intermediary. The second is that the Ministers and Custodes are bound to take a solicitous care, through spiritual friends, to relieve the necessities of the Friars.

The Rule continues :

CHAPTER V.

OF THE MANNER OF WORKING.

THE FRIARS TO WHOM THE LORD HAS GIVEN THE GRACE OF WORKING SHALL LABOR FAITHFULLY AND DEVOUTLY IN SUCH A MANNER, THAT AVOIDING IDLENESS, WHICH IS AN ENEMY OF THE SOUL, THEY DO NOT EXTINGUISH THE SPIRIT OF HOLY PRAYER, TO WHICH ALL TEMPORAL THINGS OUGHT TO BE SUBSERVIENT.

QUESTION I.

Whether or not there is any special precept in the Rule of doing manual labor?

It will be observed that in this chapter our Holy Father St. Francis commends his Friars to labor so as to exclude idleness, the enemy of the soul, and hence he says: "The Friars to whom the Lord has given the grace of working shall labor faithfully and devoutly, etc." By "the grace of working," St. Bonaventure, in treating of this chapter of the Rule, understands bodily strength or the acquired habit of industry, and also the ability of

acquiring industry. And because some have also the grace of working spiritually, and others corporally, our Holy Father St. Francis gives the rule generally to all, wishing that each one should use the grace given to him. Because, however, this chapter treats mainly of corporal or manual labor, it is to be asked whether or not there is any special precept in the Rule to labor corporally?

I reply that there is no special precept in the Rule to do manual labor. The reason is (1) that neither Nicholas III. nor Clement V. make any mention of this precept in their declarations. (2) Because, if there should be such a precept, it would oblige all; but Nicholas III. exempts from manual labor such as are engaged in literary work, studies, and preaching, as well as contemplatives notably addicted to prayer, and those impeded by priestly and ministerial duties. *There is, therefore, no special precept in the Rule of working corporally,* but there is a divine natural precept in so far as it excludes idleness. Whence a Friar Minor is not more obliged in this respect than another Christian, but because idleness is a cushion of the devil and produces much vice, it follows that everyone is bound by the divine and natural law to avoid idleness. Wherefore the Friars who live idly or lazily sin by reason of idleness and laziness and frequently fall into the most grievous sins.

From this it follows that the Friars, in order to work well, ought to labor *faithfully and devoutly;* faithfully *as regards their neighbor* that they act honestly towards him by whose favor they work, and devotedly *as regards God,* so that while working they should raise their mind to God by a good intention proceeding from their love of Him, and should observe discretion, modesty, and

silence in the performance of their work or labor, lest they should extinguish in themselves the spirit of holy prayer to which temporal things should be subservient. It is, therefore, a great fault to neglect the work of God on account of corporal or even spiritual labors. For the faithful and prudent servant knows that service ought to be rendered to the Lord ; at one time after the manner of Mary, at another, after that of Martha : no one should, therefore, so give himself up either to study or any other exercise as not to be present during the hours set apart for both mental and vocal prayer, but should follow the example of Christ who, after He had preached by day, passed the night in prayer with God.

The Rule continues thus :

BUT IN PAYMENT FOR THEIR LABOR THEY MAY RECEIVE THINGS NECESSARY FOR THE SUPPORT OF THE BODY, BOTH FOR THEMSELVES AND THEIR BRETHREN, EXCEPT MONEY ; AND THIS THEY SHOULD DO HUMBLY, AS BECOMES THE SERVANTS OF GOD, AND THE FOLLOWERS OF MOST HOLY POVERTY.

QUESTION II.

**What necessaries of the body may the Friars receive for
the recompense of their labor?**

It may be observed that it is better and more conformable to the Rule to acquire necessaries by our own labor than to beg them idly, according to the words of the Psalmist: "For thou shalt eat the labors of thy hands: blessed art thou, and it shall be well with thee" (Ps. CXXVII. 2), and according to the example of the Apostles and the ancient Fathers and of our Holy Father St. Francis himself. Besides it is lawful for the Friars Minor to receive, as stipends, necessaries for the body, not only for corporal labor, but also for spiritual labor, according to the words of the Apostle: "Know you not, that they who work in the holy place, eat the things that are of the holy place; and they that serve the altar, partake with the altar? So also the Lord ordained that they who preach the Gospel, should live by the Gospel" (1 Cor. IX. 13-14).

To the question I reply that in payment for their labor, the Friars Minor may receive food, clothing, necessaries for the sick, dwellings suitable for the Friars, and may provide for those things pertaining to their state and duties which are necessary. This is

evident from the term corporal necessity. They cannot, however, receive money for the recompense of their labor, for the Rule adds: *except money*; which words, however, do not contain a special precept besides the precept of the fourth chapter of the Rule.

From this it follows, *first*, that the Friars Minor cannot make a civil or political agreement regarding the recompense of their labor, whether corporal or spiritual, as our Holy Father St. Francis plainly indicates by the addition of the following words: "And this they should do humbly, as becomes the servants of God, and the followers of most holy poverty," as though he would say that they should not receive any recompense as if by right of any political debt, but humbly by way of alms. The reason is that the Friars Minor are incapable of all political right to anything and hence also to a recompense. The Friars Minor can, however, humbly ask for what is owed them by natural law as a recompense of civil obligation because, according to Holy Scripture: "The laborer is worthy of his hire" (Luke X. 7), and although a Friar Minor is not capable of a mutual obligation, nevertheless a secular is bound by the natural divine law not to defraud the poor of their recompense.

It follows, *secondly*, that the Friars cannot on account of the necessities of the Friars have recourse to the money given for Masses, sermons, divine offices, burials, etc., or offered for their corporal labor, except in the manner in which it was said in the preceding chapter to be lawful to have recourse to spiritual friends. Here it is to be noted that the Syndics Apostolic cannot exact in law what is provided by common law for Masses, burials, funerals, etc., *unless such things should be left to the Friars by means of a testament*. The reason is that the Friars

Minor are incapable of such a right but they can receive in such a manner, conformably to their Rule, by way of alms only. It is to be added because the debtors of such stipends for Masses celebrated, divine offices, debts, etc., are still the owners, and, therefore, they have not as yet passed into the dominion of the Pope or the Roman Church and consequently the Syndic Apostolic cannot compel them in law. The same is to be said concerning wine, grain, money, etc., which are given to the Friars for annual work by princes or cities. I say: *unless such things should be left by will*, for in this case the Pope, as common Father of the poor, commands that it should be claimed by the Apostolic Syndics, so that the pious intentions of the deceased should not be defrauded. Then, however, the Syndic is considered to so claim in the name of the Pope and not in the name of the Friars.

It follows, *thirdly*, that the Syndic Apostolic can sell books, images, pictures and the like made by the labors of the Friars and expend the price received for the same for the necessities of the Friars, for such things made by the Friars cede to the dominion of the Pope. Wherefore, it is also lawful to labor to make such things in order that they may be sold and their price used for their necessities. This is the opinion of Marchant, who adds, that it is not lawful to provide for the purchase of any material so that with it the Friars should work and finally distribute the article so manufactured through the Apostolic Syndic for a fixed price, because a certain kind of transaction stands in the way which is opposed to the purity of the life of the Friars Minor. Lastly, for the habits of the Order in which, out of devotion, deceased seculars are some times buried, it is lawful to receive a compensation, not as a fixed payment but as one given

out of natural gratitude. Besides, in every thing that has been said above, they should guard against the abuse of those who make agreements with世俗人 for celebrating Masses and make various contracts for selling, buying, collecting, etc., on account of work or labor, without the fear of God and consideration of the Rule, and according to the matter and the nature of the scandal thus involve themselves in many mortal sins.

From this exposition of the fifth chapter of the Rule, it is evident that this fifth chapter *does not contain any new precept*, for the precept of not receiving money for the recompense of labor is already contained in the fourth chapter of the Rule. Wherefore everything contained in this fifth chapter is by way of good advice and admonition to do good and avoid evil, especially that the Friars should labor faithfully and devotedly, so that idleness, the enemy of the soul, being excluded, they do not extinguish the spirit of prayer and devotion.

The Rule continues as follows :

CHAPTER VI.

THAT THE FRIARS APPROPRIATE NOTHING
TO THEMSELVES, AND OF ASKING ALMS,
AND OF THE SICK FRIARS.

LET THE FRIARS APPROPRIATE NOTHING TO THEM-
SELVES, NEITHER HOUSE, PLACE, NOR
ANY OTHER THING.

QUESTION I.

Whether or not the Friars Minor can either in common
or as individuals appropriate anything
or its use to themselves?

It is to be noted (1) that the poverty of the Friars Minor is defined as "a real abdication, for the love of God, of all political right to any temporal thing whatsoever, as regards both the thing itself and its use individually and in common." I say (1) *a real abdication*, to the exclusion of a poverty existing only in spirit and will. I say (2) *of all political right*, to the exclusion of

the natural right by which every man can and is bound to use things necessary to preserve his life. This a Friar Minor cannot renounce because it is a divine natural law obliging all men. I say (3) *to any temporal thing whatsoever*, because a Friar Minor is capable of right to a spiritual thing and to spiritual goods, merits, good works, indulgences, etc. In like manner, a Friar Minor retains his right to life and limb, to his honor and fame, to his knowledge and skill. According to our Kerckhove it is probable that a Religious is master of his manuscripts and can dispose of them according to his pleasure, and if the Superior prohibits him doing so the Religious sins if he persists, not, however, against poverty but against obedience. I say (4) *as regards both the thing itself and its use*, for Nicholas III. says: "In temporal things one may consider *proprietorship* (which is the right or power by which anyone can dispose at his own pleasure and convenience of his things by selling, giving, etc.), *possession* (which is the retention of a thing by means of the body, soul and the law), *usufruct* (which is the right of using and enjoying a thing belonging to another, its substance remaining intact), *the right of use* (or the use of the right, which is the right to use a thing belonging to another, its substance remaining intact), and *simple actual use* (which is the actual use of a thing belonging to another with the permission of the owner who can take it back at pleasure and not to have a legal defense or to be able to demand it back again from him), and this *last*, that is the simple actual use, he needs as indispensable whilst without the former the life of man can exist: there can be absolutely no profession which from himself excludes the use of the necessities of sustenance." I say (5) *both individu-*

ally and in common, in order to exclude the poverty of other Religious who can and do acquire in common the right and dominion of things in themselves as well as the use of the same. I say (6) *for the love of God*, in order to exclude the involuntary poverty of men of this world who have or possess nothing either by accident or negligence and laziness of their own, or on account of malice and meanness of others.

It is known (2) that this poverty of the Friars Minor in the manner described in the Gospel was practised by Christ and His Apostles. So Nicholas III. declares, saying: "We say that the abdication of proprietorship of this kind to all things not only in special but also in common, for the love of God, is meritorious and holy; as Christ, pointing out the way of perfection, taught by word and confirmed by example. Nor should any one erroneously suppose from this that those abdicating all proprietorship in such a manner for God's sake commit themselves to the danger of living as suicides, or as tempters of God. For they intrust themselves to Divine Providence in living, that they do not despise the means of human provision, inasmuch as they support themselves by that which is offered freely, or of that which is begged humbly, or of things which are acquired by labor, which threefold manner of living is expressly provided in the Rule." This declaration of Nicholas III. as well as that of Clement V. (after John XXII. who was against them in some things not pertaining to the faith and morals of the whole Church), as confirmed by Martin V., Paul IV., Eugene IV., Nicholas V., Gregory XIII. and Alexander VI., who repealed the extravagant of John XXII. "*Ad conditorum canonum*," and other *extravagantes* concerning the above matter as attested by P. Herinex, O. F. M.

I reply that the Friars Minor cannot, either in common or in particular, have any right, dominion, proprietorship, possession, usufruct or right of use to any temporal thing, but only the simple actual use, always dependent on the free will of the owner conceding the use of the thing which is revocable at pleasure. Hence no Friar Minor, solemnly professed, can truthfully and properly say, concerning any temporal thing in the whole world: "This thing is mine in particular or in common," since he has no right in any temporal thing or to any temporal thing. Nicholas III. and Clement V. so declared. Nor does it avail that some presume to say that simple actual use is not separable from dominion, or right, etc. For simple actual use or the use of a thing depending from the free will of another and revocable at pleasure, is separable, indeed, is actually separate in the Friars Minor from all dominion, proprietorship, possession, civil right, usufruct, and use of right even in goods consumable in one act. The reason is (1) because Nicholas III. and Clement V. in their declarations, above cited, so declared. (2) Because solemnly professed Religious of every Order have not dominion in particular, or civil right, or use of right to the food which they eat, to the drink which they drink, to the garments in which they are clothed, etc., but they have the simple actual use of these things, depending from the free will of their prelates and revocable at the pleasure of the same; it is the same with regard to servants, properly so called, who use the food and clothing conceded by their masters, without any civil right to such things. It is thus also that the Friars Minor use food, drink, garments, etc., by permission and free will of the owners offering them who can, however,

take them back from the Friars at pleasure as long as such things are not consumed. (3) Because the dominion, proprietorship, use of right, etc., are said to be rights essentially independent and irrevocable by another, for they give free power to dispose of anything, or to use it according to one's own pleasure and convenience without respect to or dependence on the will of another; nor are they revocable at will, and, moreover, they include two things, namely, that one can defend the thing civilly against any invader and can demand the thing in and out of court from anyone retaining it. But simple actual use is the actual usurpation of a thing belonging to another, depending upon the will of another, at whose pleasure it can be taken back; nor has it annexed to it any legal defense or right of claim. Therefore, simple actual use is separable and is actually separate from dominion, proprietorship, right of use, etc., in the Friars Minor who never use things by their own authority or by their own claim, by juridical and civil defence or a similar demand; nevertheless, they use them licitly, because they use them by the permission and will of the owner, revocable at his pleasure, until the thing is consumed.

From this it follows, *first*, that the dominion of things, of which the Friars Minor may have the simple use as well as the proprietorship of the same, the right of use, etc., is either in the hands of the donor or person conceding them, if he reserves to himself such dominion, etc., or if he has renounced the same, it is then in the hands of the Pope and of the Roman Church, as indeed Nicholas III. declared not only concerning utensils, books, furniture, etc., but also expressly specified this concerning places bought or offered, etc., if the donors

or persons offering do not signify the contrary. Indeed, where the donors do express themselves to the contrary, as regards the houses or dwelling places of the Friars, the Pope, nevertheless, assumes dominion and proprietorship of churches, oratories, and cemeteries.

It follows, *secondly*, that the Friars Minor can licitly and validly enjoy *spiritual and quasi spiritual privileges* which are not connected with temporal goods. The reason is that the virtue of poverty denies the possession of temporal goods only. This is evident from the Gospel for even Christ bestowed similar privileges on the Apostles when He sent them to preach and baptize, to heal the sick and to absolve sinners throughout the whole world. It follows from this that the Friars Minor can have the following spiritual privileges, namely, jurisdiction to preach, to hear confessions, to administer the Sacraments and gain Indulgences and to be exempt from the power of the Ordinaries. They can likewise have the privileges of burial, and the privilege of having churches, bells, oratories, cemeteries, etc., and further, that世俗s can hear Mass in their churches on Sundays and holidays; their churches and monasteries also enjoy the right of asylum; moreover, that the Friars shall not be bound to pay tithes, etc., and that in certain places they can collect alms, preach, etc. For the Friars Minor participate in spiritual privileges with all the mendicant and non-mendicant Orders, provided they are not contrary to the profession of the regular observance. This was expressly conceded by Clement VII. In like manner, the Friars Minor retain the right and dominion to their good name, honor, etc.

QUESTION II.

Of what things may the Friars Minor have the simple use and whether or not there may be proprietorship in the simple use? Also to what strictness are the Friars Minor bound in the use of things?

It is to be noted (1) the use of *five things* is expressly prohibited to the Friars Minor by the Rule: (1) *The use of money*, absolutely and without exception, from Chap. 4 of the Rule. (2) *The use of shoes* without necessity. (3) *The use of precious garments*. (4) *The use of horses* except in case of evident necessity. (5) *The use of procurators for money*, for from Chap. 4 of the Rule the Friars cannot receive money by themselves or by an intermediary, that is, by procurators, etc.

It is to be noted (2) that from the declarations of the Pontiffs *five others obliging the Friars Minor under mortal sin* are inferred in regard to the use and concerning the methods of poverty. *The first* is not to have and not to use annual rents. *The second* is not to be present in courts and litigations. *The third* is not to have very large or excessive churches, nor to have costly or superfluous vessels or ecclesiastical ornaments. *The fourth* is not to accept or to have superfluous gardens, not to

have granaries or cellars without evident necessity, not to have fields, vineyards, meadows, houses, etc., not to erect or tolerate sumptuous buildings besides their convents or residences. *The fifth* is not to accept testamentary inheritances or executions. So Clement V. These *five* are prohibited not on account of the pontifical precept, but on account of circumstances and of their contact with the Rule; that is, because they either contradict the essence of the state of the Friars Minor, or because they cause scandal to arise against poverty or the methods expressed in the Rule. In the first place, *annual rents, granaries and cellars* are a certain provision for the future against the state of the Order of Friars Minor and the sixth Chapter of the Rule. *Secondly, to be present in courts and litigations* implies a certain right and legal claim against poverty. *Thirdly, to have costly churches, vessels, ornaments, sumptuous buildings, superfluous gardens, etc.*, is contrary to the highest poverty and includes superfluity, curiosity and luxury (which are against the Rule). *Lastly, to accept testamentary inheritances or executions* implies political right and has ordinarily some relationship to money, both of which are contrary to the Rule and poverty of the Friars Minor.

It is to be noted (3) that the poor and strict or the not poor use is not included in the essence of poverty. So Clement V. expressly declared when he said: "To say, however, as some seem to assert, that it is heretical to hold poor use to be included or not included under the vow of evangelical poverty, We adjudge to be presumptuous and rash." Nevertheless, poor use conduces much to the perfection and the beauty of evangelical poverty. Wherefore to the essential poverty of the Rule

of the Friars Minor some strict use is added under precept. When, indeed, in the time of Clement V. there was much dispute among the Friars as to the obligation or non-obligation to strict and poor use, the above mentioned Clement V. settled this dispute and doubt of the Friars in the following words: "Wishing, therefore, to provide quiet for the consciences of the aforesaid Friars, and to put an end to these altercations, We say by declaring that the Friars Minor are especially obliged by profession of their Rule to the strict and poor use of those things which are contained in their Rule, and so obliged in such a manner as is contained or placed in the Rule concerning the aforesaid use, etc." In other things, however, not expressed in the Rule, the moderate use of things necessary either for sustaining life or the fulfilment of the duties of the offices of their state, is conceded to the Friars according to the Rule by the declaration of Nicholas III. who says: "Indeed the moderate use of things which are necessary for sustaining life as well as for the fulfilment of the duties of the offices of their state, excepting what is said below with regard to money, is conceded to the Friars but according to their Rule and to all manner of truth and in those things which the Friars can licitly use." And because the moderation of the use ought to depend upon the kind of persons, the variety of places and times, conditions, and other circumstances occurring, superfluity, curiosity or luxury cannot easily be distinguished: hence such matters ought not and cannot be decided or determined by the subjects but rather by the Ministers, Custodes, Guardians or those to whom the duty has been committed by them and who in such matters are obliged to judge and decree concerning the distinction

according to their consciences. But if in any place or convent of the Friars there should be superfluous, curious or luxurious things, the Friars do not sin by these, except those who assent to them, or introduce them, or those to whose office it belongs or anybody else who can conveniently resist them and do not dutifully do so; not, however, others who use the aforesaid things on account of any necessity or to avoid scandal, and besides St. Bernardine says: "Clement V., although he declared that exceedingly sumptuous edifices did not convene to the state of the Friars Minor, nevertheless decreed that the Friars should not, under pain of excommunication, relinquish the aforesaid places without the special permission of the Apostolic See."

To the question I answer that the Friars Minor can have the simple use in moderation of all necessary things, such as being conceded by the free will of the owner and with the reasonable and voluntary consent of their Superiors, with the exception of the ten things brought forward and made clear in Notes 1 and 2. Nicholas III. and Clement V. so declared. I say *with the reasonable and voluntary consent of their Superiors*, because it is said that *even in the simple use of anything a sin of proprietorship can be committed*: namely, when the owner retaining dominion over his thing, nevertheless, concedes its use to a Friar Minor, and the Friar Minor uses such a thing without the permission of his Superior, or consumes, destroys or gives it away without permission of his Superior; then such a Friar commits the sin of proprietorship. The reason is that the sin of proprietorship consists in this: that a Religious accepts, retains, transfers, gives away, consumes, etc., anything against the will of the Superior or without the permission of the Superior: *atqui. Ergo.*

Here it is noted by Herinex that a sin of proprietorship in a Religious is *ordinarily* also a sin of theft. If, however, the person conceding to the Religious the use of a thing wishes to retain the dominion of the same and the Religious uses such a thing without the permission of his Superior, the Religious commits the sin of proprietorship, but not that of theft, because he makes use of the thing not against the will but by the will of the owner. On the contrary, if a Religious, with the consent of his Superior, should usurp the thing of another against the will of the owner, he would commit theft but it would not be proprietary. Lastly, if a Religious, with the consent of his Superiors, should put things, of which the owner had conceded to him the right, to vain and superfluous uses, such a Religious would sin indeed against the vow of poverty which prohibits superfluity, but he would not commit theft or the sin of proprietorship, because the permission conceded by the Superior to use superfluous things, although it is not reasonable or licit, is, nevertheless, valid. This is the opinion of Herinex.

From this it follows for certain that the whole Order of Friars Minor cannot indeterminately and irrevocably concede the use of anything to any Friar Minor, much less recourse to money, because such a manner of use can be called a certain proprietorship and right of using, which is clearly repugnant to the state of the Friars Minor. Indeed, no Superior in the Order of Minors can permit any Friar to have an unlimited and indistinct use of books, utensils, etc., or to have recourse to money, even if this should be done revocably. The reason is that it would expose the subject to the evident danger of sinning mortally and would be the proximate occasion

of many transgressions, etc., and it would be the cause of almost total ruin to our Religion, provided that the Superiors should relinquish to each Friar his particular provision. The Superiors can, however, concede to any Friar a limited and revocable use of books or other utensils, and can indeed permit him, in case of necessity, to have recourse to money to be deposited for a certain and determined necessity of the Friar himself, to be employed according to the directions of the Rule and Papal declarations, because this is not expressly prohibited in the Rule. *But it is not expedient for the good of Religion that Superiors should make such concessions,* because in every Religion well formed the enjoyment of all things in common is, as it were, a certain bond of the whole Order and the foundation of poverty and of regular observance. Wherefore our Holy Father St. Francis would not that his Friars should have the peculiar use of anything except the necessary clothes and breviaries.

QUESTION III.

Whether or not it be lawful for the Friars Minor to buy,
sell, exchange, borrow, give away, etc.?

It may be observed as a general rule that every act in contracts which does not imply a civil obligation, proprietorship, or the use of money, is lawful for the Friars Minor. Thus, therefore, in buying it is lawful (1) without any civil obligation to estimate the price and to make an agreement concerning the price with natural judgment. It is lawful (2) to oblige oneself with natural fidelity to procure payment by lawful means. It is lawful (3) to actually procure the payment through worthy persons observing the necessary conditions made for having recourse through spiritual friends. *But it is not lawful* (1) to oblige oneself civilly to pay the price of the thing. It is not lawful (2) to acquire proprietorship or dominion of the thing by such a contract, but only the mere simple use. It is not lawful (3) to make payment by oneself or by one's own authority to another.

To the question I reply, *first*, that it is not lawful in the strict sense for Friars to buy. The reason is that to buy, in the strict sense, is to acquire a thing for oneself by

civil contract through the medium of a pecuniary payment. But the Friars Minor are not capable either of having the pecuniary funds or the proprietorship of anything. Therefore it is not lawful for them *to buy, in the strict sense*, either by themselves or by any intermediary; in its broader sense, however, it is lawful for the Friars to buy, in as far as to buy means “to estimate the price; to procure the purchase of the thing through worthy persons; to acquire for themselves the simple use of the thing.” Therefore, whatever is bought for the Friars is not done in the name of the Friars, but the donors or spiritual friends do this in their own names, and the Apostolic Syndics do it in the name of the Pope and of the Apostolic See; and the acquisition of the thing is not made for the Friars but either for the buyers of the owner or the Roman Church.

I reply, *secondly*, that it is not lawful for the Friars Minor to sell in the strict sense. The reason is because to sell, in the strict sense, is to transfer the dominion and proprietorship of any thing for an agreed sum of money. But the Friars Minor are not capable of transferring right or dominion since they have none, nor can they receive money; therefore they cannot *sell in the strict sense*. Yet they are allowed to value the worth of a thing in a natural manner and to agree as to the price of the thing without contracting an obligation. It is likewise lawful to beg that the thing be sold through worthy persons, *v. g.*, through the Apostolic Syndics. Hence Nicholas III. declared that books and movable property of the Friars, of which the dominion belongs to the Roman Church, can and ought to be sold through the Apostolic Syndics, and the money or price received by the Apostolic Syndics ought to be expended for their

necessities. He declared the same concerning *legacies*, *v. g.*, a house, field, vineyard, etc., which are left to the Friars, that they might be sold through worthy persons. Clement V. declared the same concerning horses, arms, etc., which are offered in funerals. In like manner Martin V. declared that even all immovable things, which the Friars have left off using, can be sold for a fixed price by the Syndic in the name of the Roman Church or in the name of the donors (*if they should have reserved the dominion to themselves and should have agreed*) and the price of the same expended for things more useful or necessary for the Friars. It is indeed lawful for the Friars to receive and procure some things with the intention that they shall be sold or distributed through worthy persons. For Nicholas III. permitted things left by will to be received and sold and the price to be spent by the Syndic for the necessities of the Friars. Clement V., indeed, decreed the same concerning the reception of horses and arms as funeral offerings. But it is always to be understood that such things are lawful only in cases in which it is lawful to have recourse to pecuniary alms, namely, in *real necessity, past, present, or imminent*, in which the Friars can also beg, procure, or receive anything, so that it may be sold through worthy persons and the price expended in things necessary for the Friars. Because in such necessity recourse can be had to spiritual friends by way of money and therefore much the more to things which are not money.

I reply, *thirdly*, that exchange or barter (by which one thing is given for another without the intervention of money) is threefold: *civil, natural and ministerial*. It is *civil* when one thing is given for another for an agreed price with civil obligation on both sides. This is not lawful

for the Friars Minor, because they are incapable of civil right or obligation. Exchange is *natural* when through natural kindness a thing is shared by one side with the other, as if mutually, *v. g.*, if one beggar gives bread he has begged to another beggar for meat that has been begged. This is lawful for the Friars Minor, because it implies no civil right on the part of the Friar Minor but the simple use. For a Friar Minor exchanging does not transfer the dominion of the thing exchanged to another outside the Order, but either the person giving a thing so exchanged, if he has reserved the dominion to himself, or the Pope transfers the dominion of the thing so exchanged to another outside the Order; nor has a Friar Minor accepted the dominion of a thing which he received in exchange, but the Pope. Exchange is *ministerial* when a person who has plainly no right to a thing, gives one thing for another in the name of another person. This purely ministerial exchange is also lawful for the Friars Minor, because it implies no political right to the thing exchanged. Wherefore, furniture, books, and other things of this kind belonging to the Friars Minor can, when it is expedient for them to be disposed of, be exchanged through the Generals, Provincials, Guardians, and by others with their permission, inside and outside the Order, without any intervention of the Apostolic Syndic, by ministerial exchange, by the authority of the donor or of the Supreme Pontiff, with this distinction, that, when the donor of the thing reserves the dominion to himself, the exchange cannot be made without his explicit consent, if it can be conveniently asked, for no part of the thing of another can be disposed of without his consent. But if the donor of the thing has not reserved the dominion of the thing and the Roman

Church has assumed it, the thing can also be exchanged without any intervention of the Syndic. For it was thus expressly declared by Nicholas III. For as the Pope gives the Friars the permission of giving things that are poor and not worth much outside of the Order without the intervention of the Syndic, it is lawful through such a donation that the dominion should pass to the receivers; because it is so with respect to the Friars donating purely ministerially, the same can be said concerning the exchange of things. It is different with respect to mere ministerial buying and selling which is unlawful to the Friars, because in that money intervenes, the use of which is clearly prohibited to them.

I reply, *fourthly*, that it is lawful for Guardians and other Superiors who have faculties to do so from their Ministers, to exchange outside the Order (if not prevented by the express prohibition of the donor) wool or fabrics for cloth, grain for wine or beer, or anything else of the same kind for something more useful to them, even by a fixed price or value, and this without the knowledge of the Syndic. The reason is that here a mere ministry takes place without any right and reception of money, and those giving alms and similar things to the Friars intend that they should be used in the manner most convenient and useful to them. In like manner, it is lawful for one Guardian to exchange those things of which there is an abundance in his convent for others which abound in the convent of another Guardian, *v. g.*, if one has a superfluity of butter and the other of grain, they can exchange one for the other. The Friars can likewise beg for anything that they can so exchange it, provided real necessity exists.

I reply, *fifthly*, that it is not lawful for the Friars to

let anything out to hire civilly, or so to borrow, pawn, exchange, contract debts, etc., because such things occasion civil obligations of which the Friars are incapable. However, all the things here enumerated are lawful for the Friars Minor in so far as they imply merely human fidelity and natural reasonableness, provided that the use of money does not intervene and that there is no scandal. It is lawful, however, for the Apostolic Syndic to let out for hire some things deputed for their use for *any short and limited time* in which they cannot be used, and to convert the price of the same to necessary use. I say for *any short time, etc.*, for he cannot do so for a long time or in perpetuity, because this would have the quality of interest or rent, of which the Friars are incapable.

I reply, *sixthly*, that the Friars Minor can, with the permission of their Superiors, donate (by natural, not civil donation) within the Order those things which are allowed for their use; because this kind of donation, within the Order, is only a transfer of the simple use, by permission of the Superiors, to whom the natural administration of such things has been entrusted. Indeed, it is lawful for the Friars Minor, with the legitimate permission of their Superiors by commission of the Supreme Pontiff, to give things that are poor and not worth much outside the Order. Nicholas III. expressly so declared, but added the following conditions: (1) *That the thing which is given should be movable.* (2) *That it should not be money.* (3) *That it should be poor or not worth much.* (4) *That judgment as to its trifling value should be left to the General or Provincial Chapter.* (5) *That the donation should be made with the permission given by the Superior of the Order, and also by the Guardian or Praeses of the place.*

Nevertheless, with regard to small and frequently necessary things, it suffices, according to Hugo de Dina, to have a general permission of the Superiors; indeed the tacit consent of the Superiors, namely, when the Superiors know it and do not oppose it, but rather acquiesce, ordinarily seems to be sufficient. Such is the opinion of Kerckhove. From this it follows that *they sin gravely* (1) who give costly things to others. (2) Who, without the permission of the Superior, give to others pictures and other things offered by benefactors with the injunction to bestow them on whom they wish, saying or representing that they are the owners of the things given and that the same are to be distributed by their will, not considering that a distribution made in this manner, without the permission of the Superior of the Order and as if proprietary, is prohibited them by virtue of the Rule.

I reply, *seventhly*, that it is lawful for the Friars Minor to give grain, butter, food, etc., to their laborers in part recompense from equity and natural gratitude, not, however, on account of a civil agreement (for that is lawful for the Apostolic Syndics only). The reason is that those who give food, etc., to the Friars do not require that the same should be restricted to the Friars, but that those who labor with the Friars and for the Friars can eat of such things.

The Rule continues as follows:

“AND AS PILGRIMS AND STRANGERS IN THIS WORLD,
SERVING THE LORD IN POVERTY AND HUMILITY, LET
THEM GO FOR ALMS WITH CONFIDENCE; NOR OUGHT
THEY TO BE ASHAMED THEREOF, BECAUSE THE LORD
MADE HIMSELF POOR IN THIS WORLD FOR OUR SAKES.”

QUESTION IV.

Whether or not the Friars Minor are bound to beg from door to door, and whether or not they can have annual revenues, or receive things left by will, or make yearly provision, etc.?

As will be noted our Holy Father St. Francis, after he has stripped and cleansed his Friars of all temporal things, warns them that in this world *they should serve the Lord as pilgrims and strangers, in poverty and humility.* For, as pilgrims on their way to their native country have no habitation or place of their own and as they do not delay or burden themselves by carrying things with them, but continually sigh for and shape their course towards their native land, even so, the Friars Minor, having nothing of their own in this world and not being laden with any temporal thing, ought always to desire and travel towards the heavenly country. Because, however, they need certain temporal things to sustain them on the way, our Holy Father St. Francis suggests to them in place of money, which can be carried off by thieves, a certain means of sustaining life, by saying: "Let them go confidently for alms; nor should they be ashamed, because the Lord became poor for us in this

world.'’ For, according to St. Bernard and St. Bonaventure, He Himself begged bread from door to door, during the three days He remained in Jerusalem, unobserved by His parents. In like manner He begged hospitality from Zachaeus; a draught of water from the Samaritan woman, etc. Thus also the Friars Minor of Christ ought not to be ashamed by begging to imitate the Son of God, but ought to go to collect alms confiding in the infinite and omnipotent goodness, mercy and fidelity promised by Jesus Christ, our Lord and God, when he said: “Amen, I say to you, there is no man that hath left house, or parents, or brethren, or wife, or children, for the kingdom of God’s sake, who shall not receive much more in this present time, and in the world to come, life everlasting.” (Luke XVIII. 29, 30). And again: “Amen I say to you, there is no man who has left house, or brethren, or sisters, or father, or mother, or children, or lands, for my sake and for the Gospel, who shall not receive an hundred times as much, now in this time; houses, and brethren, and sisters, and mothers, and children, and lands, with persecutions: and in the world to come life everlasting.’’ (Mark X. 29, 30). We see with our own eyes the fulfilment of this in our Order of the Friars Minor; because during the many years it has already existed, no Friar Minor in public need and famine, in time of war and persecution, even among heretics, Turks, pagans and barbarians, has ever died from hunger, as many other men have died, but he has always received, for the love of God, sufficient alms to sustain life. This fact having been noted, it may be asked: whether or not the Friars Minor are bound to beg, and also, whether or not it is lawful for the Friars Minor to

have annual revenues; to receive legacies left by will; to make yearly provisions of wine, grain, etc.?

I reply, *first*, that the Friars are obliged to do some begging; because it was so declared by the Supreme Pontiffs Nicholas III. and Clement V., who reject, as illicit, everything which so separates the Friars Minor from begging that they can spend their lives without daily begging. The fundamental reason is that, since the Friars Minor can have no right to things, they ought to receive the things which they use as pure alms. I say *they are held to do some begging*, for it does not seem that the Friars Minor are strictly held to that mendicancy which is pursued by begging from door to door, but in general to that mendicancy by which they receive as mendicants the things that are given to them in any manner. For he begs well who receives daily offerings as a beggar; he begs well who accepts nothing as a recompense for his labors in addition to what a beggar ought to receive; he also begs well who seeks and accepts bread from door to door as a beggar.

I reply, *secondly*, that it is not lawful for the Friars Minor to have annual revenues or those things which approach the nature of revenues. This was expressly declared by Clement V. The reason is that these things are in contradiction to our highest poverty and mendicancy. I say, *or which approach the nature of revenues*, because such are sheep, oxen, apiaries, columbaria, etc., which return any revenue, and these are all prohibited because they do away with mendicancy or they afford some certainty, both of which are contrary to our state. For our Holy Father St. Francis so removed the proprietorship of things from us, that he left us to the uncertainty of mendicancy. Whatever, therefore, either

induces any certitude or removes mendicancy is against the Rule.

I reply, *thirdly*, that the Friars Minor cannot be appointed heirs. Clement V. so declared. The Friars can, however, receive legacies left by wills, if they are left in the manner allowed to the Friars. Nicholas III. so declared. Lawfulness of this kind consists chiefly in four things: (1) That it should be done by way of pure alms, without any right of the Friars. (2) That the thing *in se*, which is left by will, either can be ceded for the use of the Friars, or can, by disposition of the testator, be converted into a thing useful and necessary for the Friars, even if it should be *money*, *v. g.*, as when a house or vineyard is left that it may be sold and its price laid out for the necessities of the Friars. (3) That by such a legacy the mendicancy is not removed, or that it certainly does not cause any grave rumors. (4) That no fraud could be presumed towards the heirs, or no sinister designs could be imputed to the Friars on account of the great quantity received. Clement V. so declared. But if a legacy should be left to the Friars, without any condition added, it will be held to be left to the Friars in a lawful manner, so that neither the testator is deprived of his merit, nor the Friars of the fruit of the legacy. If, however, the one bequeathing the legacy imposes, through ignorance, any illicit condition on the Friars, the heirs, or executors, or the Bishop, as father of the poor, can change it; but if they would not do so, it is necessary that the Friars must abstain from receiving such a legacy.

I reply, *fourthly*, that although Marchant teaches that the Friars Minor cannot accept legacies in perpetuity, *even in the nature of pure alms and with the required protesta-*

tion, v. g., for wine necessary for the church, or for oil, or other things necessary for the Friars each recurring year, nevertheless Kerckhove, with Rodriguez and Cor-duba, teaches that the Friars Minor can, *in the nature of pure alms and with the required protestation*, accept perpetual legacies made for the necessities of the Friars without violating the Rule and poverty and the Pontifical declarations. The reason is, because any benefactor, as long as he lives, can give ten florins every year as alms to the Friars, *v. g.,* for their necessities. Therefore, one dying can also oblige his heir that after his (the benefactor's) death the heir should out of the goods left give ten florins to the Friars every year for their necessities. But it must be understood that real necessity should exist, on account of which it would be lawful for them, according to what has been said above, to have recourse to spiritual friends to solicit pecuniary payment. But if the heir or executor, after a lapse of time, did not wish to give such alms any longer, the Friars could go to him and modestly ask and counsel him to consult his conscience, but they could not bring him to court either by themselves or by the Syndics. In such a case, however, the Friars are neither obliged to celebrate the aforesaid Masses, or to perform the pious works. But if, through a multiplicity of such perpetual legacies, mendicancy would be done away with in any convent, it would not be lawful to accept them, because they would be contrary to our state and poverty, as we said above, with regard to receiving annual revenues.

I reply, *fifthly*, that it is not unlawful for the Friars Minor to keep for some time one or two pigs, one ox, one or two sheep to kill, on account of any reasonable help or proper necessity, because this would not be

prejudicial to mendicancy, or to the uncertainty of the life of the Friars Minor. But to keep sheep, oxen, pigs, to have apiaries, etc., as if to produce profit, or for sale, or even in such a number and quantity as would notably diminish mendicancy and poverty, is against the Rule, as Corduba, Marchant and others point out, whether the same is done by Friars or by seculars.

I reply, *sixthly*, that it is not lawful for the Friars Minor to make any provisions, except only when it is most probable, from past experience, that they cannot otherwise find the necessaries of life. The necessity of making such provisions, or of having granaries, or cellars, etc., is, however, left to the judgment of the Ministers and Custodes conjointly and separately in their Provinces and Custodies with the advice and assent of the Guardian and of two priests as discreets of the Convent and of the older Religious whose conscience is onerated in this matter. Clement V. so declared and also laid down three conditions necessary for making provisions of this kind: 1. That the fear should not be light but evident from some experience. 2. That the daily mendicancy is not removed by such provisions. 3. That it should be made with the judgment of the Ministers or Custodes with the Guardian and of two sacerdotal discreets.

The Rule continues as follows:

“THIS IS THE SUBLIMITY OF THE MOST EXALTED POVERTY WHICH HAS CONSTITUTED YOU, MY BELOVED FRIARS, HEIRS AND KINGS OF THE HEAVENLY KINGDOM, HAS MADE YOU POOR IN THINGS AND HAS EXALTED YOU IN VIRTUE. LET THIS BE YOUR PORTION, WHICH WILL LEAD YOU INTO THE LAND OF THE LIVING, TO WHICH, BELOVED FRIARS, STRICTLY ADHERING, NEVER DESIRE TO HAVE ANYTHING ELSE UNDER HEAVEN FOR THE SAKE OF OUR LORD JESUS CHRIST.”

QUESTION V.

In what does the height of the poverty of the Friars Minor consist?

It will be noted that when our Holy Father St. Francis founded his Order and his Friars on the highest poverty, he thereupon adduced motives and reasons on account of which his Friars should be moved and stimulated to love this highest poverty from their hearts, to preach it by word and to practise it in their works. The *first motive* is, because this most high poverty makes the Friars Minor *heirs and kings of the kingdom of heaven*: heirs, namely, according to these words of the Gospel: “Blessed are the poor in spirit: for theirs is the kingdom of heaven.” (Matt. V. 3). Kings also of the kingdom of heaven, according to these words: “Amen, I say to you, that you, who have followed me, in the regeneration, when the Son of man shall sit on the seat of his majesty, you also shall sit on twelve seats judging the twelve tribes of Israel.” (Matt. XIX. 28). The *second motive* is, because this most high poverty makes the Friars Minor *poor in things but exalted in virtue*; removes from them temporal things and riches, which have been to many the cause of temporal and eternal ruin; on the

contrary, it endows them with virtues as true and spiritual riches; for the most high poverty is the mother of all virtues, since from it spring forth love of God and hope in the providence of God, humility, temperance, chastity, obedience, gentleness, love of one's neighbor, patience, courage, penance, prayer, etc. The *third motive* is, because it *leads to the land of the living*, according to the words of our Lord: "And every one that hath left house, or brethren, or sisters, or father, or mother, or wife, or children, or lands for my name's sake, shall receive an hundredfold, and shall possess life everlasting." (Matt. XIX. 29). Wherefore our Holy Father St. Francis admonishes that his Friars, wholly attached to this most high poverty, should never desire to possess anything else forever under heaven for the name of our Lord Jesus Christ. It may, therefore, now be asked: In what does the apex of this most high poverty consist?

To this I reply that the apex of the poverty of the Friars Minor consists in three things, on account of which it can rightly be called most high above the poverty of all other Religious. *First*, in the entire abdication of all dominion or right to the thing, as well as to the use of the thing, in particular as well as in common, so that they cannot even have the simple use of money. *Secondly*, in the strict and poor use of those things which are set forth in the Rule, and in moderate and poor use in those which are not set forth. Whence the use of money, which is perhaps allowed to other Religious, is prohibited to the Friars Minor. *Thirdly*, the apex of poverty consists in this, that the Friars Minor receive all that they use and use the same as mendicants, receiving nothing as a debt (although for

the recompense of labor), but as a present to poor beggars; nor can they beg or receive more offerings *gratis*, or for work done, than necessity requires.

The Rule continues as follows:

“AND WHEREVER THE FRIARS MAY BE AND MAY MEET WITH OTHER FRIARS, LET THEM MUTUALLY SERVE ONE ANOTHER AND CONFIDENTLY MAKE KNOWN THEIR WANTS TO EACH OTHER, FOR IF A MOTHER LOVES AND NOURISHES HER SON ACCORDING TO THE FLESH, HOW MUCH MORE DILIGENTLY OUGHT EVERY ONE TO LOVE AND NOURISH HIS SPIRITUAL BROTHER? AND IF ANY OF THEM FALL SICK, THE OTHER FRIARS OUGHT TO SERVE HIM AS THEY WOULD WISH TO BE SERVED THEMSELVES.”

QUESTION VI.

Whether or not the Friars Minor are bound to serve their
sick brethren as they would wish to be
served themselves ?

It is to be observed that after our Holy Father St. Francis had placed poverty as the foundation of his Order, he begins to commend to his Friars that they should show fraternal charity towards each other, especially in their necessities and infirmities, because, if charity does not exist among Friars, and if one Friar is not helped by another Friar, each one would be compelled in his necessities to provide for himself, by which the observance of poverty in the Order would perish and fall to the ground. Wherefore our Holy Father St. Francis demands true and perfect poverty among his Friars, not feigned charity, nor charity in speech and words only, but charity in the heart, in work, in fact, in truth, according to the example of Christ, when He said to His disciples: "This is my commandment, that you love one another as I have loved you." (John XV. 12). To which St. Francis, in order to persuade his Friars, adds this

reason: "For if a mother loves and nourishes her son according to the flesh, how much more diligently ought everyone to love and nourish his spiritual brother?" For a mother loves and nourishes her offspring from natural love only, because it is her own flesh and blood, but a Friar Minor ought to love his spiritual brother (who for God's sake has been made his brother in the Order) and ought to do good to him from supernatural love for God's sake, because a creature is the brother and coheir of Christ, the Son of God. Wherefore it is asked, whether or not the Friars Minor are bound by their Rule, under mortal sin, to serve their sick brethren, also even in contagious diseases, as they would wish to be served themselves?

I reply in the affirmative. Clement V. so declared. And it is evident from what is said in this chapter of the Rule: If any of them fall into sickness, *the other Friars are bound to serve him as they would wish to be served themselves*; but every Friar wishes to be served by the other Friars, even in contagious diseases. Therefore. This precept, however, first obliges the Superiors that they take care that *all temporal necessaries* are efficiently administered to their sick Friars, namely, medicines, food, clothing, beds, etc., as well as all *spiritual necessaries*, namely, the Sacraments of Penance, Viaticum and Extreme Unction. But if the Superiors and those appointed infirmarians by them should be negligent in caring for the sick Friars, then all the Friars are bound, under mortal sin, to serve the sick Friars as they would wish to be served themselves. When, however, the sick are duly attended by others, the rest need not take this care upon themselves. Moreover, expositors of the Rule add that Superiors or infirmarians who are

negligent in the care of the sick sin mortally, not only against the Rule, but also against the divine natural law.

It follows that although our Holy Father St. Francis ordered Superiors to take a solicitous care for the necessities of the sick and commanded the Friars that they should serve their sick brethren, he, nevertheless, also admonishes all the Friars *to have patience in sickness*. Those trespass against this admonition: (1) who are downcast at the least indispositions or weaknesses, as if they were going to give up the ghost, and who hasten to send for the doctor and for the druggist and straightway leave off all spiritual exercises. (2) Those transgress more gravely who in their sickness seek for things more costly and in greater abundance than becomes the state of poverty. (3) Those sin most gravely who, under the pretext of sickness and without the required permission, appropriate electuaries and the like to themselves by way of medicinal remedies against ordinary ailments. Superiors will not deny and cannot deny such things as are necessary, but the proprietorship of them and their reception and reservation for use is prohibited by the Rule as well as their use when it is not necessary.

From this exposition of the sixth chapter of the Rule it is evident that this sixth chapter contains two *precepts* obliging under mortal sin. The first is that the Friars appropriate nothing to themselves. The second is that they should serve the sick Friars as they would wish to be served themselves. This chapter further contains three *admonitions* to do good. The first is that the Friars should go confidently for alms and should not be ashamed. The second is that the Friars, wholly attached to poverty,

should never desire to possess anything else forever under heaven. The *third* is that wherever the Friars find themselves they should be confidential with one another and each one should freely manifest his necessity to the other.

The Rule continues as follows :

CHAPTER VII.

OF PENANCE TO BE IMPOSED ON THE FRIARS WHO SIN.

IF ANY OF THE FRIARS, BY THE INSTIGATION OF THE ENEMY, SIN MORTALLY IN ANY OF THOSE SINS CONCERNING WHICH IT HAS BEEN ORDAINED AMONG THE FRIARS THAT RE COURSE BE HAD SOLELY TO THEIR PROVINCIAL MINISTERS, THE AFORESAID FRIARS ARE BOUND TO HAVE RE COURSE TO THEM AS QUICKLY AS POSSIBLE AND WITHOUT DELAY.

QUESTION I.

What cases or sins are reserved in the Order?

It is to be noted (1) that by virtue of the Rule, the reservation of cases or sins belongs to the General and Provincial Chapters, as is evident from the text of the Rule: "by sins concerning which it has been ordained among the Friars that they should have recourse solely to their Provincial Ministers," etc. By virtue, however,

of pastoral solicitude, the Minister General has the power of reserving cases or sins for the whole Order, and the Provincials have the same power for their Provinces, because these prelates have *quasi-episcopal* jurisdiction over their subjects, according to the common teaching of Doctors. Guardians, however, cannot of themselves reserve cases, for their power, since it is not *quasi-episcopal*, was diminished and restricted in this respect at the General Chapter held at Assisi in 1526. But the Ministers General or Provincials cannot, after the decree of Clement VIII., reserve cases of themselves, except those expressed in the decree of Clement VIII. I say of themselves, because in the aforesaid decree the Pope says: ‘‘If it should seem that any grave sin ought to be reserved for the conservation of religion and for purity of conscience, it cannot be done otherwise than after the mature discussion and consent of the General Chapter for the whole Order, or the Provincial Chapter for the Province.’’

It is to be noted (2) by virtue of the aforesaid decree of Clement VIII. that for cases expressly reserved in this decree, and even for other grave sins not expressed in it, Regular Superiors may inflict some severe penances, but secret ones and ones which can be performed in secret and which the confessors are bound to impose.

It is to be noted (3) by virtue of the seventh chapter of the Rule that from the beginning of the Order none but *public sins* were reserved, and consequently the Friars were bound to have recourse to their Ministers solely for public sins reserved, for *the Rule speaks of the public sins only*. (1) Because the Friars, when they fell into any reserved sin, were to recur at once in person to

the Provincial Ministers, even if they lived in distant places; and hence the cause, namely, the reserved sin, had to be known to the Superior of the Convent from which they departed, and consequently it had to be public. Otherwise, if the sin should have been hidden, the Friars would have had to injure their characters seriously, which they were not bound to do. (2) Because they had to make known their sin to the Minister, even if he was not a priest, to which also they would not have been obliged if it had not been a public sin. (3) Because Gregory IX. and Innocent IV. so declared. Hence the Friars were not bound by virtue of their Rule to have recourse to their Ministers for reserved sins that were hidden. At the present time, however, the Friars are not bound to go in person to the Ministers for reserved sins that are public, because this precept depended upon *the disposition of the Friars in Chapter*, as is evident from the words of the Rule: “*By sins concerning which it has been ordained among the Friars,*” etc. But at the present time it is not ordained that the Friars should go in person to their Ministers for reserved sins that are public. *Ergo*. If, however, this should be ordered anew, then the Friars would be bound by all means from this precept of the Rule to have personal recourse as before to the Ministers for public sins. In virtue of this precept also none but mortal sins can be reserved, as is evident from these words: “*If any of the Friars, by the instigation of the enemy, sin mortally,*” etc.

To the question I reply that the cases generally reserved in the Order, are as follows:

I. Apostasy from the Order.

II. Proprietorship against the vow of poverty which is a mortal sin, and theft of things of the Convent in such quantity as to constitute a grave sin.

III. Slaying, or wounding, or severely striking any person.

IV. False swearing in a Court of Regulars.

V. Forging the handwriting or seal of the Superiors.

VI. Maliciously impeding, delaying, or opening letters of the Superiors to subjects, and of subjects to the Superiors.

VII. A sin of the flesh, complete of its kind, with oneself or with others.

VIII. Contumacious disobedience, namely, when anyone, having received three admonitions made at proper intervals, perseveres in his disobedience.

IX. To write slanderous publications, to cause them to be made or published, or to advise, or lead to their being made, and to make things known outside the Order which defame the Order itself.¹

A brief explanation of these cases follows:

FIRST RESERVED CASE.

Apostasy from the Order.

By apostasy, as a reserved case, is here understood apostasy properly so called, which is the rash and illicit act by which a validly professed Religious leaves the Order he has professed with the will not to return to it, or to another, whether he puts off the Religious habit or not. This is the common opinion of Doctors quoted by Kerckhove. This excludes those who only against the grave injunction of the Superiors go out anywhere on any

¹ The foregoing cases are reserved, even though they may not be public acts, provided that they are public and complete, according to the words of the law reserving them, and certainly mortal sins.

pretext to stroll for a time with the intention of returning at some time, but who are not, according to the common law, to be called apostates, but fugitives. But by the Constitutions of our Order such persons are to be punished as apostates and incur excommunication, although they are not included in this case. Anyone, however, who goes one or a few steps outside the grounds of the monastery with the intention of really apostatizing, although he sins mortally, does not incur this reserved case, because a speedy return is not to be called a departure. It is, nevertheless, a reserved case to apostatize from a house or place where the Friars live outside a convent, or from the house of any secular or on a journey.

THE SECOND RESERVED CASE.

Proprietorship against the vow of poverty which is a mortal sin, and theft of things of the convent in such quantity as to constitute a grave sin.

In the first part is to be understood only that mortal sin which has *an added proprietorship against the vow of poverty*. Proprietorship, however, consists in this that a Religious accepts, returns, transfers, or consumes anything without the permission of the Superior. *This is the common opinion of all.* But in order that proprietorship against the vow of poverty should be a mortal sin, the same quantity is required as is required in men to constitute matter for a mortal sin of theft.

By *theft* is understood the seizure of a thing of another, the owner or administrator being reasonably unwilling. Wherefore, since it is not lawful for our Superiors, or for the whole of our Order, to have domin-

ion or right to anything, our Friars are held to commit theft as often as they steal any of the things of the convent, the Superior being unwilling; because they do so either against the will of the *Pope*, to whom the things of the convent belong, as far as concerns their dominion, or against the will of the *donor*, who has reserved their dominion to himself, and they do so always against the will of the Superiors to whom the dispensing of the things has been committed by the Pope or by the donors. By *things of the convent* we must understand, according to Kerckhove, those things which are given to our Superiors to dispense for the use of the convent. Likewise, a thing which is conceded by the Superiors for the particular use of the Friars, *v. g.*, books, rosaries, pictures, etc., or the manuscripts, sermons, etc., of any Friar, living or dead, because all these are held to be things of the convent. By the *quantity which constitutes a grave sin* is to be understood that which we have indicated above and which Marchant, in his day, judged to be of the value of one florin, which quantity can now certainly be doubled. In eatables and drinkables, however, double the greater quantity is required by Kerckhove, who also warns that in a Province in which great care is taken that the most high poverty, which we have vowed, should be strictly observed, thefts of this kind do not only displease Superiors as regards manner, but also as regards the substance.

THIRD RESERVED CASE.

Killing, or wounding, or seriously striking any person.

By *killing* is to be understood a voluntary and unjust action, by which the soul of a man *ex utero nati* is

separated from the body. I say *ex utero nati*, because, although to procure abortion of a living foetus is homicide, it is not, however, the killing of a man *ex utero nati*, but of a man to be born; it includes, however, the killing of a man *excisi ex utero*. By *wounding* is to be understood an injurious and serious incision of human flesh. By *seriously striking*, in order to distinguish it from *wounding*, is to be understood not everything that is a mortal sin, but which inflicts serious harm to the body, such as crippling of a limb, breaking of the teeth, great bruises, etc. Light striking can, moreover, become grave on account of the person struck, or on account of scandal, or on account of the place. By the words *any person* is to be understood any living person, masculine or feminine, secular, ecclesiastic, heretic, pagan, etc. Indeed, a person seriously wounding or striking himself also falls under this case.

FOURTH RESERVED CASE.

False swearing in a Court of Regulars.

By *false swearing*, in order that it should be a reserved case, is to be understood a lie confirmed by an oath in a lawsuit pertaining to Regulars. By a lawsuit pertaining to Regulars, however, is to be understood a lawsuit over which a Regular presides, or one having jurisdiction over Regulars and which concerns the case of Regular persons.

FIFTH RESERVED CASE.

To falsify the handwriting or seal of the Superior.

By *falsification* is to be understood a changing of the truth; wherefore to falsify writing is to change the sense

which the writing conveys to another of any sort with malice and cunning. By *handwriting* is to be understood not only the signature which authenticates the writing, but also the whole of the writing, since this is called the handwriting. By the particle *or* it is insinuated that it suffices for incurring this case either to falsify the handwriting or the seal, so that either of them suffices. By *seal* is to be understood that which Superiors as such append or are wont to have printed to their writings in order to distinguish such writings as theirs. By Superiors we are to understand the General, Provincials, Guardians, and any other real Superiors.

SIXTH RESERVED CASE.

Maliciously impeding, delaying, or opening letters of the Superiors to subjects, and of subjects to the Superiors.

By *maliciously impeding* is to be understood the retention or interception of letters, done through malice, so that they cannot come to the hands of those to whom they are directed. By *delaying* is to be understood to maliciously perform the foregoing act so that the letters should not come in proper time to those to whom they are sent. By *opening* is to be understood the breaking of the seal by which a letter is closed, lest it should be read. By *letters of the Superiors to subjects, and of subjects to the Superiors* is to be understood that he incurs this case who should impede, delay, or open letters of his own Prelates of the same Order to their subjects, or *vice versa*. By Superiors are to be understood here the General, Provincials, local Superiors, Visitors, etc.

SEVENTH RESERVED CASE.

A sin of the flesh, complete of its kind, with oneself or others.

This case includes (1) all carnal coition, whether it be according to or against nature; (2) all pollution voluntarily procured by any external act, whether of one's self or another, which is grievously sinful in matters of lust. Therefore this case is not incurred by pollutions arising from too much drink or drunkenness, or from morose pleasure in unchaste thoughts, even if they are employed with a view to producing pollution and that a person consents to the pollution arising thence. The reason is that, in the first case, the pollution is procured by an act which is not lascivious, and, in the second, that it is produced by an internal act.

EIGHTH RESERVED CASE.

Contumacious disobedience, namely, when anyone, having received three admonitions made at proper intervals, perseveres in his disobedience.

In order that the disobedient one should incur this reserved case, it is required: (1) that three warnings should be given before, and these by a Prelate; (2) that these three warnings should be made in due time, that is, at least at intervals of some hours so that the subject may meanwhile recollect himself and adapt himself to obedience; (3) that whatever is commanded to the subject should be commanded under the form of obedience and should be of sufficient importance to be commanded by obedience under mortal sin.

NINTH RESERVED CASE.

To write slanderous publications, to cause them to be made or published, or to advise, or lead to their being made, or also to make things known outside the Order which defame the Order itself.

By a *slenderous publication* is meant a sign or writing which contains some one's infamy not yet public, and which is made public in order to bring it to the notice of others. In the case is to be understood a publication made up through cunning malice by which our Order is defamed. It does not matter whether or not the name of the author is expressed; it is, however, required that the intention should exist of divulging the publication immediately or afterwards, since the malice of a slanderous publication consists either in the publication of a false crime, or the undue publication of a true crime which is not notorious. They incur this reserved case also who make up infamous publications either by themselves or by others, who publish the same or are accomplices, namely, by inducing or advising, whether or not the libel is divulged outside or only inside the Order.

In the second part is reserved the sin of those who communicate to those outside the Order, either by word or letter, anything false, or true, but hidden, from the manifestation of which the good name of the Order might be notably diminished.

QUESTION II.

To whom are the Friars Minor bound to have recourse in order to obtain absolution from reserved cases?

As is known, no one, unless he is a priest, can absolve from sins or from reserved cases, because the priest alone receives at his ordination at least *in radice* the power to absolve from sin. Indeed, although one should be a priest and even a confessor of世俗者, he cannot validly absolve the Friars Minor from sin, much less from reserved cases, unless he should have jurisdiction in regard to the same from the Superiors of the same Friars Minor; because Clement VIII. declared that all Friars and Sisters of all Orders, whether mendicant or non-mendicant, were not to have the privilege of the Bull *Cruciatae*, or of other particular indults in respect to the article on the choice of confessors outside the Order, and adds: "But it is our intention that the same Friars and Sisters should, as often as they have recourse to the Sacrament of Penance or Confession, be subject to the jurisdiction of their Prelates, and this We declare forever by apostolic authority in virtue of these presents. We admonish and command the same Prelates that in the exercise of power of this kind they should show

themselves benign and affable towards their subjects." An exception is, however, made to the foregoing rule in case of necessity. Besides, by concession of the Supreme Pontiffs, a Friar Minor legitimately abiding outside a convent, can, although he should have a confessor of the Order with him, be directly absolved from sins, even those reserved in the Order, by any confessor approved by his respective Superior to hear confessions.

To the question I answer, *first*, that the Minister General has ordinary power of absolving from cases reserved in our Seraphic Order with respect to the whole Order, the Provincial with respect to his Province, the Custos with respect to his Custody.

The delegated power of absolving from reserved cases belongs to other confessors of the Order, to whom the power has been communicated by the aforesaid Prelates. And such there ought to be in each house. For in his decree, Clement VIII. after saying: "It is not lawful for the Superiors of Regulars to hear the confessions of their subjects, except when they commit any reserved sin, or when the subjects themselves voluntarily and of their own accord ask this of them," adds: "Superiors shall depute two, three, or more confessors in each house, according to the greater or lesser number of the subjects, and who should be learned, prudent and endowed with charity, who will absolve from cases that are not reserved, and to whom also the faculty to absolve from reserved cases shall be committed, particularly in case the confessor himself judges that the faculty should be given." Indeed Urban VIII. declared that if the Superior will not give to confessors the faculty requested for any reserved case, the confessors can for that time absolve penitents who are Regulars,

even without obtaining the faculty from the Superior. Lastly, even in small communities, the Superiors ought certainly, according to the decree of the Sac. Cong. on the State of Regulars, to habitually depute at least one confessor, from among the Religious of the Order, who should have the faculty of absolving from cases and censures reserved in the Order. Clement VIII. declared, however, that the following faculty belongs to Superiors : “To determine upon severe penances to be imposed by confessors for certain sins, even not reserved, by means of which the subjects can be restrained from committing sins of this kind.”

I reply, *secondly*, that although the Prelates of the Order formerly had the fullest faculty of absolving subjects from Papal cases, nevertheless, since the publication of the Constitution *Apostolicae Sedis*, they can no longer absolve from censures contained in that Constitution and which are reserved and subject either in a special manner or simply to the Roman Pontiff, and those who need absolution and are prevented from going to Rome ought to have recourse to the Holy See for the necessary faculties. The Holy Office so declared. The Ministers, however, still retain the privilege by which they can absolve their subjects from excommunication contracted on account of striking a cleric even notably, and although the one struck should belong to another Order or to the secular clergy. If the Prelates have any faculties for absolving from censures reserved to the Roman Pontiff which are not contained in the aforesaid Constitution and which belong to their internal regimen, the Prelates shall retain the same.

The Rule continues as follows :

BUT THE MINISTERS, IF THEY BE PRIESTS, SHALL MERCIFULLY ENJOIN THEM PENANCE. BUT IF THEY BE NOT PRIESTS, THEY SHALL CAUSE IT TO BE ENJOINED THEM BY OTHERS WHO ARE PRIESTS OF THE ORDER, AS IN THE SIGHT OF GOD SHALL SEEM TO THEM MOST EXPEDIENT; AND THEY SHALL TAKE CARE NOT TO BE ANGRY OR TROUBLED AT THE SIN OF ANYONE, FOR ANGER AND TROUBLE HINDER CHARITY IN THEMSELVES AND IN OTHERS.

QUESTION III.

Whether or not the Provincial Ministers can delegate to any confessor outside the Order the power of absolving their Friars from sins, even from those that are reserved?

It will be noted that after our Holy Father St. Francis had commanded his Friars that for absolution from reserved cases they should have recourse to the Provincials, he then admonishes the Provincials that, if they are Priests, they should with mercy enjoin penance upon them; if, however, they are not priests, that they should see that it be enjoined by other priests of the Order, as it shall seem most proper to them, in the sight of God. Here it is to be recalled, according to what was said above, that in the beginning of the Order, by virtue of the Rule, only public sins of the Friars were reserved, for which, therefore, the Friars had to have recourse in person for absolution to the Provincials who, if they were Priests, would absolve them from the aforesaid sins, enjoining a salutary penance. If, however, they were not Priests (because at the beginning of the Order there were few Priests in it on account of deficiency of studies) they were obliged to send the Friars to other

Priests of the Order who imposed due penance and absolved them. In order, however, that the Provincials to whom the Friars sinning should have recourse for absolution, as well as those Priests of the Order to whom the Provincials should send them to receive absolution, should be merciful towards the sinning Friars in absolving them and enjoining penance upon them, St. Francis exhorts them "that they should not be angry or troubled on account of the sin of anyone, because anger and trouble in themselves and in others hinder" fraternal charity, mercy, compassion and confidence.

This having been noted, I reply that the Provincials can sometimes delegate to a secular confessor or to one of another Order their authority for absolving *in foro conscientiae* the Friars subject to them from sins, even from those which are reserved. The reason is, because the Provincials are prohibited by no law from so doing, for the Rule, as above stated, does not refer to this case, but to public sins; again, because Clement V., in his declaration, enumerating all the precepts of the Rule, formal as well as prohibiting, those having the equality of precepts as well as those having the force of precepts, makes no mention of any check having been put on the Provincials to prevent them from delegating their authority for absolving their Friars to a confessor outside the Order; again, because the Provincials with respect to their subjects have quasi-episcopal power and jurisdiction. Therefore, as they often place secular priests as confessors over the Sisters who are subject to them, so also, for grave cause, the Provincials can sometimes delegate their authority for absolving the Friars subject to them, even from reserved cases, to secular confessors or to regulars of another Order; and these the

Pontifical decrees suppose, which prohibit confessors, inside and outside the Order, from hearing the confessions of Friars against the will of their Superiors. I say *Provincials*, for this right is not enjoyed by *Guardians*; for as it does not pertain to the latter to approve confessors for the Friars, so they cannot delegate the same outside the Order.

From this exposition of the seventh chapter of the Rule it is evident that this chapter contains *one precept only*, obliging under mortal sin, namely, that the Friars who have incurred public reserved cases are bound to have recourse to their *Provincials* in order to obtain absolution from the same, if it should have been so ordained among the Friars. This chapter further contains *two admonitions*. The *first* is that the Ministers should with mercy enjoin penance upon the sinning Friars. The *second* is that the Ministers should not be angry or troubled on account of the sin of any Friar.

The Rule continues as follows:

CHAPTER VIII.

OF THE ELECTION OF THE MINISTER GENERAL OF THIS FRATERNITY AND OF THE CHAPTER OF PENTECOST.

ALL THE FRIARS ARE OBLIGED ALWAYS TO HAVE ONE OF THE FRIARS OF THIS ORDER FOR THE MINISTER GENERAL AND SERVANT OF THE WHOLE FRATERNITY; AND HIM THEY ARE STRICTLY BOUND TO OBEY. WHEN HE DIES, HIS SUCCESSOR SHALL BE ELECTED BY THE PROVINCIAL MINISTERS AND THE CUSTODES IN THE CHAPTER OF PENTECOST, IN WHICH THE PROVINCIAL MINISTERS ARE ALWAYS BOUND TO ASSEMBLE, WHEREVER THE MINISTER GENERAL SHALL APPOINT: AND THIS THEY SHALL DO ONCE IN EVERY THREE YEARS, OR AT OTHER PERIODS LONGER OR SHORTER, ACCORDING AS THE AFORESAID MINISTER SHALL ORDAIN.

QUESTION I.

Whether or not the Friars Minor are bound under mortal sin to have always one Minister General and by whom ought he to be elected?

It may be observed that the *Minister General* is he who has authority and jurisdiction over the whole Order and over all the Friars. He is, however, called *Minister and Servant* by our Holy Father St. Francis, in

order, according to St. Bonaventure, that he should show the greatest humility, so that, as the Seraphic Doctor puts it, "he who, while he was subject, obeyed one or two, should know that he was elected Minister General in order that he should obey every necessity." He is also called by our Holy Father St. Francis Minister and Servant of the whole Fraternity, or of the *Order and Religion*, "because the Fraternity is nothing else than the congregation of many descending in order from St. Francis or his successors and who vow and strive to observe the Rule of the Friars Minor in its purity under the same St. Francis or his successors." The special symbol of this Fraternity is the *most high poverty*, concerning which our Holy Father St. Francis says: "This evangelical poverty is the foundation of our Order and on this basis the whole structure of the Religion rests, so that, in as far as it is strengthened, total ruin is averted. As much, therefore, as the Friars shall turn away from poverty, so much shall the world turn away from them, and they shall seek and shall not find. If, however, they shall cherish my Lady Poverty, the world will nourish them, because they are given to the world for its salvation."

To the question I reply that the Friars Minor are bound, under mortal sin, to have always one of the Friars of this Religion as Minister General, namely, one who has made his profession in the Order of Friars Minor, whom the Provincials and Custodes are obliged, under mortal sin, to elect, and whom all the Friars are firmly bound to obey. This is evident from the text of the Rule and from the common opinion of all expositors. The obedience, however, which is here commanded to be shown to him ought to be understood in the same

manner and obligation as it is understood in the first chapter of the Rule, and as is more fully explained in the tenth chapter: wherefore, this is not a special precept, but concurs with the same. The Minister General ought, moreover, from the Rule to be perpetual, as is evident from these words, "at whose decease," which signifies death. From the ordinations of the Supreme Pontiffs (to whom belongs all obedience as the approvers of the Rule and heads of the whole Church), the office of Minister General, except with a dispensation, lasts only twelve years.

I reply, *secondly*, that by virtue of the Rule the Minister General must be elected by the Provincials and Custodes only. This is evident from the text of the Rule. The Provincials are those, who having been legitimately elected or appointed, govern Provinces. The Custodes in former times were those, who on account of the magnitude of Provinces and for greater facility ruled a certain number of convents erected into a custody. Now, however, Custodes are ordinary Prelates who preside over small Provinces and who are called Governors of the Custody. Moreover, the name Custos is also given to one who is elected in Provinces, properly so-called, that with the Definitors he may help the Minister in the government of the Province, and is the first of the Definitors.

I say *by virtue of the Rule*, for by the present legislation of the Order, ordained and approved by the Supreme Pontiff, the right of voting at the General Chapter for the election of the Minister General also belongs to Ex-Ministers General, to those who have occupied the office of Vicar General for two years, to the Procurator General, to Ex-Procurators General, pro-

vided they have held their office to the beginning of the third year, to the Definitors General and to the Secretary General. Moreover, if Provincials or *Custodes Gubernii* are legitimately prevented, the Custos of the Province or the first Discreet of the Custody enjoy respectively the right of suffrage. For the rest, the election of the Minister General ought to be made at the place of the General Chapter, wheresoever it shall have been appointed by the Minister General, and this by virtue of the Rule. This election can only be made *at Pentecost*, or on Pentecost Saturday, as is clear from the words of the Rule. From this it is also evident that the General Chapter can meet as often as the Minister General pleases, and also that the Provincials are bound under mortal sin to assemble.

The Rule continues as follows:

“AND IF, AT ANY TIME, IT SHALL SEEM TO ALL THE PROVINCIAL MINISTERS AND CUSTODES THAT THE AFORESAID MINISTER IS NOT QUALIFIED FOR THE SERVICE AND GENERAL WELFARE OF THE FRIARS, THE SAID FRIARS, TO WHOM THE ELECTION IS COMMITTED, ARE BOUND TO ELECT FOR THEMSELVES ANOTHER AS CUSTOS, IN THE NAME OF THE LORD. BUT AFTER THE CHAPTER OF PENTECOST, THE MINISTERS AND CUSTODES MAY EACH, IF THEY WISH AND DEEM IT EXPEDIENT, CONVOKE A CHAPTER OF THE FRIARS IN THEIR CUSTODIES ONCE IN THE SAME YEAR.”

QUESTION II.

Whether or not the Provincials and Custodes, perceiving the incompetency of the Minister General, are obliged, under mortal sin, to depose him and to elect another?

It is to be noted that in order to depose the Minister General two things are required by virtue of the Rule: the *first* is that he should not be competent for the service and common utility of the Friars, as for instance if he was sick, troublesome, incapable, etc. The *second* is that this incompetency is evident to all the Provincials and Custodes, that is, to the greater part of them and according to law as the Four Masters explain.

To the question I reply that the Provincials and Custodes, perceiving the incompetency of the Minister General, are obliged, under mortal sin, to depose him and to elect another. This is evident from the words of the Rule "*they are bound,*" which obtains the force of a precept, and wheresoever this word "*they are bound*" is placed in the Rule it ought to be observed by the Friars as a precept.

Moreover, the Rule does not oblige under sin with regard to the celebration of the Provincial Chapters, as

it plainly says that the Ministers and Custodes can, “*if they wish,*” assemble their Friars at the Chapter. Nevertheless, by the ordination of the Supreme Pontiffs and the General Constitutions, the Provincial Chapter must be celebrated every three years, and in it a new Provincial elected by those having a voice.

From this exposition of the eight chapter of the Rule it is evident that this chapter contains *three precepts* obliging under mortal sin. The *first* is that the Friars Minor are bound to have always a Minister General. The *second* is that the Provincials and Custodes must elect him in the Chapter of Pentecost. The *third* is that, if they see that he is not qualified for the service and general welfare of the Friars, they are bound to elect another. This chapter further contains *one license*, namely, that the Ministers and Custodes can, if they wish, assemble their Friars at the Chapter.

The Rule continues as follows:

CHAPTER IX.

OF THE PREACHERS.

“LET THE FRIARS NOT PREACH IN THE DIOCESE OF ANY BISHOP WHEN THE SAID BISHOP HAS OPPOSED THEIR DOING SO.”

QUESTION I.

Whether or not Preachers of the Order of Friars Minor can preach against the objection of the Bishop ?

It is to be noted that, by virtue of the Rule, Preachers of the Order of Minors are not bound to receive approbation from the Bishop, because it suffices, by virtue of the Rule, that the Bishop should not contradict them, as is evident from the text of the Rule. It was, however, decreed by the Council of Trent that Regular Preachers, in order to preach in churches which do not belong to their Order, should be approved by the Bishop; to preach, however, in churches of their own Order they are obliged to ask the blessing of the Bishop.

This was confirmed by Clement X., when he decreed thus: "Regulars who wish to preach in Churches of their Order are bound to ask the blessing of the Bishop of the Diocese; they can, however, preach, although they should not have obtained it. But if the Bishop not only does not concede his blessing, but also forbids them, then it is not lawful for Regulars to preach even in the aforesaid churches."

To the question I reply that it is never lawful for a Friar Minor to preach against the objection of the Bishop either in churches belonging to his Order or not belonging to it. The reason is clear from the text of the Rule which Nicholas III. ordered to be observed *ad litteram*. It is also evident from the Bull of Clement X., just cited. Lastly Clement V. declares as a precept having the nature of a precept: "That the Friars must not preach in the Diocese of any Bishop where it may have been contradicted them by him."

The Rule continues as follows:

"AND LET NO FRIAR BY ANY MEANS DARE TO PREACH TO THE PEOPLE UNLESS HE HAVE BEEN EXAMINED AND APPROVED BY THE MINISTER GENERAL OF THIS FRATERNITY AND THE OFFICE OF PREACHER BESTOWED UPON HIM BY THE SAME."

QUESTION II.

Whether or not the Preachers of the Order of Minors can
be examined and approved for preaching by
the Minister General alone?

I reply, *first*, that, by virtue of the Rule, the Minister General alone has the ordinary power to approve of Preachers. This is evident from the text of the Rule. I say *ordinary power*, for the Minister General can always give or delegate to another the commission to approve in matters of this kind, since his power is not restricted by this precept.

I reply, *secondly*, that on account of the increase in the number of Friars, the power of approving Preachers was also conceded by Nicholas III. to the Provincials with their Definitors in the Provincial Chapters. Nicholas III. expressly so declared. Here it is to be noted that this is not lawful for the Provincials alone, nor for the Definitors alone, but for the Provincial and the Definitors assembled together and not assembled simply, but only at the Provincial Chapters, under which head are also to be understood Congregations which have the force of Chapters. The Ministers General can, however, revoke, limit, and suspend the power

of the Provincials and Definitors in the admission of Friars to preaching. It was so expressly declared by Nicholas III.

I reply, *thirdly*, that the Minister General, as well as others who are commissioned to admit Friars to preaching, are obliged to examine as to the fitness of the aforesaid Friars to preach. This is evident from the text of the Rule. It is not necessary, however, that the above mentioned should examine the Friars themselves, but it suffices that they are examined by others so that their fitness is manifest, because in this way the end of the precept is sufficiently observed. Otherwise, on account of the number of Friars, the burden would be too great; and so it suffices that the fitness of the persons should be sufficiently known, concerning which the consciences of those admitting them are by all means burdened.

The Rule continues as follows:

“I ALSO ADMONISH AND EXHORT THESE SAME FRIARS THAT, IN THE SERMONS THEY PREACH, THEIR WORDS BE WELL CONSIDERED AND CHASTE FOR THE BENEFIT AND EDIFICATION OF THE PEOPLE, AND THAT THEY SPEAK TO THEM OF VICES AND VIRTUES, OF PUNISHMENT AND GLORY, IN FEW WORDS, BECAUSE OUR LORD WHEN ON EARTH USED BREVITY OF WORDS.”

QUESTION III.

In what manner ought the Friars Minor to preach ?

I reply that our Holy Father St. Francis requires five conditions in the preaching of the Friars Minor. The *first* is that *their words should be well considered*, that is, they should be composed with due diligence and should not be improvised ; they should not be delivered at random without preparation and deliberation, and should not be novel, not suspicious, not erroneous. The *second* is that *they should be chaste*, not vulgar, not scurilous, not idle, not laughter provoking, not scandalous, but pure, sane, sincere, honest, etc. The *third* is that *they should be for the edification and benefit of the people*, not for the pride, adulation, or profit of the preacher. The *fourth* is that *they should speak to them of vices and virtues, punishment and glory*, that is, moral matter and such as arises at making persons lead a good life. The *fifth* is that they should be made *in few words*, that their discourses should be concise, not extravagant, not long or superfluous, such as would occasion weariness to the hearers.

From this exposition of the ninth chapter of the Rule it is evident that this ninth chapter contains *two precepts* obliging under mortal sin. The *first* is that the Friars

must not preach in the Diocese of any Bishop where they have been contradicted by him. The *second* is that no Friar must dare to preach to the people unless he shall have been examined and approved by the Minister General of this Fraternity. This chapter further contains *one admonition to do good*, namely, that in preaching, the discourse of the Friars should be studied and chaste for the utility and edification of the people, etc.

The Rule continues as follows:

CHAPTER X.

OF THE ADMONITION AND CORRECTION OF THE FRIARS.

"LET THE FRIARS WHO ARE MINISTERS AND SERVANTS OF THE OTHER FRIARS, VISIT AND ADMONISH THEIR FRIARS AND HUMBLY AND CHARITABLY CORRECT THEM, NOT COMMANDING THEM ANYTHING CONTRARY TO THE GOOD OF THEIR SOUL AND OUR RULE."

QUESTION I.

Whether or not the Superiors of the Order are obliged under mortal sin by virtue of the Rule to visit, admonish, correct, etc., their subjects?

It may be observed (1) that by the name of *Ministers* or *Servants* we ought here to understand all the Superiors having the care of souls and government in the Order, according as the care or government belongs to them by ordinary or delegated authority. For, although the word *Minister* is frequently used for the

Provincial, it is sometimes also extended to other Superiors of the Order. Our Holy Father St. Francis wished to call the Superiors and Prelates of his Order *Ministers and Servants*, after the example of Christ, who said: “Whosoever will be greater, shall be your minister. And whosoever will be first among you, shall be the servant of all.” (Mark X. 43-44.). Accordingly our Holy Father St. Francis admonishes the Ministers or Superiors of his Order of their duty, namely, “That they should visit, humbly admonish, charitably correct their Friars, and should not command them to do anything which is against their souls and our Rule,” but that which they command them to do should be according to their conscience and our Rule.

On account of this it is to be noted (2) that the duty of the Superiors towards their subjects is fourfold, namely, *to visit, admonish, correct and command their subjects*. *Visitation* implies necessary and vigilant knowledge and investigation, so that the Superior as shepherd may know how it fares with the whole flock and how it fares with each sheep; what is good for them, what hurtful, what they need, and what is superfluous for them, etc. For it is the duty of the Superiors to “watch as being to render an account for the souls” of their subjects. (Hebr. XIII. 17.). *Admonition* implies exhortation to be made to the weak and the tepid, because subjects are to be admonished rather than reproved, so that he may be soothed by paternal admonition who by harsh correction would be precipitated into a depth of despair. *Correction* is made by word, or by the infliction of penance or of punishments which, in order that they should be medicinal, ought to be humble in word, charitable in purpose. *Command* belongs to govern-

ment and ministry, so that those who are not moved by admonitions may be drawn and held by precepts and prohibitions as if by reins.

To the question I reply that the Superiors of the Order are not obliged by virtue of the Rule to visit, admonish and correct their subjects. The reason is that no precept is included in this text of the Rule: "The Friars who are the Ministers and Servants of the other Friars should visit and admonish etc.," as is evident from the declaration of Nicholas III. and Clement V., who, enumerating the precepts of the Rule and those having the force or tenor of precepts, do not make mention of a precept of this kind.

I reply, *secondly*, that by the divine and natural law the Superiors are bound to visit, admonish and correct their subjects, and to direct them by commands, so that, if on account of their acts, or neglect of duty, or negligence, any grave evil should occur to; or threaten a subject, or if relaxation should creep into the Order, they would sin mortally, according to the nature of the evil and peril. The reason is taken from the intrinsic nature of government and care of souls, and from the words of Holy Scripture. We may read of terrible threats against the watchman placed over the house of Israel: "If (says God) when I say to the wicked: Thou shalt surely die: thou declare it not to him, nor speak to him, that he may be converted from his wicked way, and live: the same wicked man shall die in his iniquity, but I will require his blood at thy hand." (Ezech. III. 18.). We read similar maledictions hurled against the shepherds of Israel: "Woe to the shepherds of Israel, that fed themselves: * * * but my flock you did not feed. * * * Hear the word of the Lord: * * * Behold, I myself

come upon the shepherds, I will require my flock at their hand." (Ezech. XXXIV. 2, 3, 9, 10.). Every Superior or Prelate is constituted *watchman* or *shepherd* of his house or convent, and these maledictions remain on him if through his negligence, or malice, or timidity, or too great indulgence, or human respect, any of the Friars who are subject to him should perish, and if the regular discipline and observance of the Rule should suffer any detriment.

It follows that if the Provincial visits any convent of the Friars and, as he is bound, seeks for defects of the Friars, they are bound in conscience from love of God and their neighbor, and to preserve regular life and the observance of the Rule, to make known the defects of the other Friars to the Provincial, as if to a *father*. In this manifestation, however, the Friars are bound, according to Kerckhove, to observe the following: (1) When the sin of a Friar is altogether hidden and not injurious to anyone, except to the guilty Friar himself, then, before it is made known to the Superior *as to a Father*, the guilty Friar ought first to be spoken to by way of fraternal correction by the Friar to whom it is known, provided only that from such correction an equally opportune correction of the guilty Friar may be hoped for. (2) Faults and defects of Friars already corrected and amended, of which there is no more sign or probable danger of their recurring, cannot be declared by subjects to the Superiors without mortal sin in an important affair. (3) When the local Superior of a monastery can by himself alone correct the defects of the Friars and is able to guard against the recurrence of transgressions, such defects cannot be made known to the Provincial or to the General in time of visitation,

unless it is evident that the local Superior is not doing his duty in this regard. (4) The faults of the Friars committed once through mere frailty ought not to be made known to the visiting Prelate, provided that the guilty Friar has amended and is not in danger of relapsing. (5) No one is bound to reveal to a visiting Prelate faults of his Friars which he has only heard from others. This is the opinion of Kerckhove.

The Rule continues as follows :

“BUT LET THE FRIARS WHO ARE SUBJECT REMEMBER THAT, FOR THE LOVE OF GOD, THEY HAVE RENOUNCED THEIR OWN WILL. HENCE I STRICTLY COMMAND THEM TO OBEY THEIR MINISTERS IN ALL THINGS WHICH THEY HAVE PROMISED THE LORD TO OBSERVE AND WHICH ARE NOT AGAINST THEIR OWN SOUL AND OUR RULE.”

QUESTION II.

Whether or not the Superiors of the Order can impose upon the Friars subject to them precepts obliging under mortal sin, except those which are contained in the Rule?

It will be noted that our Holy Father St. Francis here first admonishes his Friars that when the Superiors command them to do or omit anything, they should recall to mind their profession in which, for the love of God, they freely vowed to show obedience to their Superiors and renounced their own will, and hence also they freely and from love of God should fulfil the obedience promised in their holy profession. In order, however, that the same might be infallibly observed, St. Francis adds a formal precept, saying: "hence I firmly command them to obey their Ministers in all things which they have promised the Lord to observe and which are not contrary to their conscience and to our Rule." This precept, without doubt, obliges under mortal sin all the Friars who are subject to obey their Superiors, namely, the Minister General, the Provincials, the Guardians, Vicars, etc., in all things "which are not contrary to their conscience and to our Rule."

Wherefore, the obedience of the Friars is limited by two bounds only, namely, *against conscience* and *against the Rule*. In all things else which are evidently not against either conscience or the Rule, they are bound to obey. A thing is said to be *against conscience* which is either a mortal or a venial sin, or an incentive or approach to the same. A thing is *against the Rule* when it is contrary to the precepts of the Rule and to those things which are commanded according to the Rule.

To the question I reply that the Superiors of the Friars Minor may impose precepts obliging under mortal sin besides those which are contained in the Rule. The reason is taken from the power of the one ruling and the obedience of the one vowed, and is the common and irrefutable doctrine of all who treat of law. In order, however, that the command of a Superior should oblige under mortal sin, two things are required; the *first* is gravity of matter, because the power of a Superior is orderly and reasonable; and hence as a law ought to be just and in order to oblige under mortal sin, supposes grave matter, so much the more ought the command of a Superior to oblige under mortal sin require grave matter. Grave matter ought, however, to be estimated from the circumstances of the evil which a command should prevent, and not only from the nature of the thing. For malice depends from the circumstances more frequently than from a thing itself, *v. g.*, if because the Friars enter any suspected house the neighbors are scandalized, the Superior can forbid such entrance under mortal sin, for, even if it seems to be light matter in itself, nevertheless relatively it is a grave matter. In like manner, if the Friars have relaxed religious discipline on account of the general freedom

in eating and drinking in cities, have become mean and despised on account of noted idle conversations, or of sensual acts not becoming Religious, or of drunkenness, liberties, etc.; then the Superior can prohibit any one, under mortal sin, from eating or drinking in the cities, where we have convents. And thus also in other things. The *second* thing required in order that the command of a Superior should oblige under mortal sin, is *the intention of the one commanding, to wish to oblige under mortal sin*, for, if a Superior does not wish to oblige under mortal sin, certainly his command does not oblige under mortal sin, because a command derives its force from the intention of the person commanding. It can, however, be known from the following whether or not a Superior wishes his command to oblige under mortal sin: (1) if he expressly signifies the fact; (2) if he should command under obedience or under pain of excommunication; (3) from the great gravity of the matter the nature of which almost naturally supposes such a will. In a case, however, in which it is evident from the intention of the Superior that he wishes to oblige under mortal sin, and when there is doubt as to the gravity of the matter only, the subjects are bound to obey, because it is to be presumed that the judgment of the Superior commanding suffices, since he would not command under mortal sin unless he considered that the matter was grave, especially since the Superior has the power to command.

From this it follows that Superiors can impose upon subjects commands of *two kinds*, namely, by means of *simple order and appointment*, or by means of *laws and statutes*. Those commands of the Superiors made by *simple order or appointment* are such as are made by the

Superior alone, *v. g.*, by the Minister General, by the Provincial, Guardian, etc., or by a Superior with the Definitorium only, and these oblige according to the intention of the Superior imposing them and oblige so long as the Superior imposing them remains in office, and they are not perpetual. Those commands of the Superior, however, which are made *by means of laws and statutes*, are such as are made by the Minister General with the consent of the General Chapter, or by a Provincial with the assent of the Provincial Chapter which consists of the Definitorium and the others having the right of suffrage, and these commands are true laws and oblige in perpetuity, nor do they expire by the death of the lawgiver. And such *true laws* are our General Constitutions which, however, do not oblige *sub culpa*, but only *sub poena*, unless the Friars are otherwise obliged *sub culpa* by the divine and human law, and unless the command of censure or obedience is placed in these statutes, for they say: "But we declare that the Friars are not bound *ad culpam* by these Statutes, except by formal contempt, or habitual transgression from which scandal should arise, unless the Friars should otherwise be obliged by the divine or human law, or unless in these Statutes themselves the command of censure or obedience is placed." Commands made, however, by means of simple order or appointment are the ordinations of the Venerable Definitorium or of the Minister General alone, or the Provincial alone, etc.

It follows, *secondly*, that although the three essential vows and all the precepts of our Rule *ex genere suo* oblige under mortal sin, nevertheless, not every transgression of the vows or the precepts of the Rule is a mortal sin, for, as in divine and human commands, *levity of matter*,

imperfect advertence or half complete consent, excuse from mortal sin, so also in the vows and precepts of the Rule. Thus Marchant says: “And so I do not believe that a person sins mortally who, without legitimate necessity, wears shoes for one or two hours, or who in like manner without necessity rides for one mile without scandal; for to wear shoes or to ride implies something morally continuous for a certain time. So I also believe that many ways recorded for having recourse to money do not oblige under mortal sin, provided that the substance of the command is observed, so that the Friars really do not receive money and do not have any part in its administration, or dispensation, or use.”

QUESTION III.

**Whether or not the Superiors of the Order can interpret
the precepts of the Rule and dispense from them ?**

As is known it is one thing to *interpret* the precepts of the Rule, and another to *dispense* from the precepts of the Rule, for to interpret the precepts of the Rule is nothing else than to declare, things and all the circumstances of things being considered, that the precepts of the Rule do not reasonably oblige in a particular case. To dispense, however, from the precepts of the Rule is to relax *de facto* the obligatory precepts of the Rule by legitimate authority; hence the distinction between *dispensation* and *interpretation* is this, that a dispensation relaxes an obligatory law, while an interpretation declares that a law does not oblige.

This point having been noted, I reply to the question, *first*, that it is sometimes lawful for the Superiors to interpret the precepts of the Rule of the Friars Minor as not being obligatory in certain cases. The reason is clear. For if it is lawful to interpret the natural, divine and human, the ecclesiastical and civil laws, why not the precepts of the Rule? This interpretation ought, however, to be founded on the *equity of justice*. But the

causes for this equitable or just interpretation are principally two, namely: (1) *The necessity of the person acting*; thus, if the life of a Friar Minor living among barbarous people should be imperiled unless he had the use of money, the Superior sending him can interpret that he is not obliged by the precept of not receiving money. Thus the Superior can interpret that a Friar who is ill is not obliged to recite the Divine Office, that he may use several tunics, that he may wear shoes, that he may ride, etc. For whoever do these things in such cases do not use a dispensation, but do so from the interpretation that the precept does not oblige under similar circumstances. *This should be carefully noted on account of the ignorance and the errors of many*, who think that any wearing of shoes, or riding, or the use of several tunics, or eating on fast days, are dispensations. This is false; for he who does these things on account of necessity does nothing against the Rule but uses his right, because in these particular circumstances the precepts of the Rule do not oblige such persons. Wherefore Nicholas III. said: "And so, by the natural right in case of extreme necessity, the way is not precluded from the Friars in the event of such necessity to provide for their natural support, as extreme necessity knows of no law." The second case of equitable justice for interpreting the precepts of the Rule is *the concurrence of another precept*, for where two precepts concur which cannot both be fulfilled, the greater ought by equity to be placed before the lesser, the natural before the positive, the divine before the human. Thus a Friar Minor is bound by the precept of charity and justice to aid a neighbor *hic et nunc*, but if he cannot aid him without violating the fasts of the Rule, or omitting the Divine Office, and even using

money, he is not bound *hic et nunc* by the aforesaid precepts of his Rule, but is bound to help his neighbor in order to satisfy the precept either of charity or of justice. The reason is because these are divine precepts, whereas the precepts of the Rule are human. And to these causes almost all interpretations can be reduced. And although, by virtue of his duty and office, the Superior alone can interpret a law, nevertheless, in case of anxiety, where the Superior is not present and when action is urged by necessity, anyone can use *epikeia* or can interpret the law.

I reply, *secondly*, that the Superiors of the Order can for a reasonable cause dispense from any of the precepts of the Rule. The reason is that dispensation is an act of the pastoral office which is conceded so long as it is not restricted by a Superior. I say (1) *for a reasonable cause*, because the Superior cannot licitly or validly dispense from anything in the vows or in the law without just cause. *There are two just causes for dispensing.* The first is *the spiritual utility* of the one dispensed or of others in general, *v. g.*, if the Superior sees a scrupulous Friar who repeats his Office several times a day from scrupulousness and who is otherwise altogether disturbed, he can, for the spiritual utility of such a one, dispense him from these things so as to restore him to quietude and interior peace. In like manner, a Superior can, with regard to the spiritual utility of others, dispense a Friar from reciting the Canonical Hours, because he is obliged to preach sermons from morning until night, or to hear confessions which, if he is not at liberty to apply himself to, the souls of many shall suffer detriment. The second cause for dispensing is *corporal necessity* of the one dispensed or of others in general. Thus

the Superior can dispense a Friar from reciting the Canonical Hours, because it would interfere with his bodily health. In like manner, a Superior can dispense the Brother Infirmarian from fasting, so that he can fully satisfy the wants of the sick.

I say (2) that *Superiors can dispense from some of the precepts of the Rule*, namely, in those things which do not pertain to the substance or essence of Religion or the common good of the Order but only the particular necessity of the Friars, *v. g.*, that they may wear shoes, ride, have several tunics, that they need not fast, or recite the Canonical Hours, etc. This is the common opinion of expositors. Here, however, the Friar so dispensed ought to bear in mind that the dispensation avails only as long as the cause for the dispensation lasts, and that as soon as the cause ceases the dispensation also ceases. If, however, a Friar who is dispensed by one Superior for a reasonable cause, receives another Superior, it is not necessary for him to seek a new dispensation from the new Superior, if the cause which procured the dispensation from the preceding Superior still exists. So also a Friar who is dispensed ought to remember that he should not make a practice of doing what is allowed by the dispensation, for he who is ill to-day may be better to-morrow, and he who is compelled during the present winter to wear shoes may be able to do without them next year. Hugo de Dina likewise adds: "Let those take care when they are allowed such liberties to conceal them, when it can be done, lest the mode of life to be carefully observed by each Religious should be publicly deteriorated and material furnished for judgment to the injudicious."

I reply, *thirdly*, that also dispensations from the pre-

cepts of the Rule and much more from the Statutes of the Order may be imposed by the Superiors under precept in a particular case and for a reasonable cause and oblige those upon whom they are imposed, *v. g.*, if a Superior foresees that a sick or a very scrupulous Friar shall become demented or insane from the recitation of the breviary, he can command such a Friar to omit the recitation of the breviary. The reason is that a dispensation is an act of the pastoral office not only useful to the flock but also sometimes necessary. Therefore, at least where it is judged necessary, it can be imposed under precept and the subject is bound to obey lest he should expose himself to falling into pride and to the most grave dangers.

I reply, *fourthly*, that also the concessions made in the Rule can be prohibited by the Superiors by precept when, for a reasonable cause, their observance is not expedient for the Order or for any Religious. The reason is that if a dispensation from any precepts of the Rule holds by virtue of the pastoral office, much more so does a license from reasonable cause. Concessions of this kind are the following: that the Friars may mend their garments with sackcloth; that they can have two tunics if they wish; that they can eat of all things placed before them; that those who wish can keep the fast of Benediction. The reverse is to be said regarding other concessions, from the observance of which no detriment, inconsistency or indiscretion is to be feared either to the Religion or to any particular Friar.

The Rule continues as follows:

“AND IN WHATEVER PLACE THOSE FRIARS MAY BE WHO KNOW AND FEEL THAT THEY CANNOT OBSERVE THE RULE SPIRITUALLY, THEY MAY AND OUGHT TO HAVE RE COURSE TO THEIR MINISTERS.”

QUESTION IV.

What is required in order that a Friar who is subject is bound to have recourse to the Ministers for the observance of the Rule?

I reply that two things are required in order that the Friars should be obliged to have recourse to the Ministers. The first is that in the place in which they live the Rule cannot be spiritually observed. The second is that they really know and unhesitatingly feel this impossibility. When these two things concur, the Friars are bound, under mortal sin, to have recourse to their Ministers. Clement V. so declared. The Friars are considered not to be able to *observe the Rule spiritually* in a place when on account of the place or of those who are in the place they are *almost forced* to sin against their conscience and the Rule, or on account of the incentives, are in continual danger of sinning; if there should be improper company of women in the place, or intimacy which would be an incentive to sin, or if evil companionship of the Friars living there should be an inducement to sin, etc. If, however, the danger of sinning does not arise on the part of the place, or of the persons or occasions existing in the place, but only from the frailty or

malice of the Friar, since it is through his own fault that he does not remove the occasion or resist the sin, then in such a case the Friar is not bound to have recourse to the Minister, and the Minister is not bound to receive him or to change his residence, but it suffices that he enjoin on him to resist the sin and remove the occasion. Much less is the Minister obliged to hear Friars who on account of their levity or malice contrive occasions for themselves by which they can shake off the yoke of obedience, or that they may find a suitable place for their sensuality. Neither ought a Friar to have recourse to the Minister nor should he be heard solely on account of the supererogant perfection which he expects to find in a greater degree in another convent or place. This is the common opinion of expositors of the Rule.

Where the complaints of a Friar recurring can be adjusted by the Guardian, it is not necessary to have recourse to the Provincial. This is the opinion of Hugo de Dina who says: "The Friars can have recourse to the Provincials when otherwise by the aid of the inferior Ministers they cannot observe the Rule spiritually, and it would be superfluous to have recourse to the higher Prelates since those in need can be aided with equal profit by the lesser ones." It is not necessary to have recourse *personally* if the evil can be otherwise sufficiently obviated by messenger or letter. This is the opinion of St. Bonaventure who says: "They ought to have recourse to their Ministers, etc. To have recourse, I say, by themselves, or by a messenger, the form of the Statutes of the Order being observed in going, because this duty is not exempt from obedience to the Statutes."

The Rule continues as follows:

“LET THE MINISTERS INDEED RECEIVE THEM KINDLY AND CHARITABLY AND SHOW THEMSELVES SO FAMILIAR WITH THEM THAT THEY MAY SPEAK AND ACT WITH THEM AS MASTERS WITH THEIR SERVANTS; FOR SO IT OUGHT TO BE, THE MINISTERS OUGHT TO BE THE SERVANTS OF ALL THE FRIARS.”

QUESTION V.

In what manner ought the Ministers to receive the
Friars who have recourse to them for
the observance of the Rule?

I reply that our Holy Father St. Francis requires three conditions in the Ministers in their reception of the Friars having recourse to them for the observance of the Rule, namely, that they should receive them benignly, charitably and with affability. Thus the text of the Rule. "Benignity," according to St. Bonaventure, "refers to the countenance, charity to the heart, affability to the speech; so that they should receive them with a kind face, with affable words, and a heart full of compassion, and should avoid speaking any words of command, harshness and coldness, and should entirely abandon the appearance of authority after the example of Him who said: 'He that is the greater among you, let him become as the younger; and he that is the leader, as he that serveth.'" (Luke XXII. 26.). By these words, however, "that they may speak and act towards them as masters towards their servants," the Rule means that the Superior ought to bear the burden, fatigues, and infirmities of the subjects and thus serve them as master by procuring their spiritual welfare in watchings and labors. "It is not, however," says St. Bonaventure, "to be understood by these words that the

subject is afforded an occasion for too much boasting on account of the humility of the Ministers, lest, as Gregory says, when too great humility is observed the authority of the one ruling is lessened. Servants, indeed, but particularly in that which pertains to the salvation of their souls: ‘I am in the midst of you, as he that serveth.’” (Luke XXII. 27.). Those Friars should, therefore, take care who have recourse to the Ministers without reverence and without sincerity under the pretext of zeal for regular observance, when, as a matter of fact, they seek nothing except human consolations and sensualities, and to escape the corrections of their immediate Superiors, of which they stand in need; let such Friars consider how much injury they do to their Founder and their Rule.

The Rule continues as follows:

“BUT I ADMONISH AND EXHORT THE FRIARS IN THE LORD JESUS CHRIST THAT THEY AVOID ALL PRIDE, VAINGLORY, ENVY, AVARICE, CARE AND SOLICITUDE FOR THE THINGS OF THE WORLD, DETRACTION AND MURMURING. LET THOSE WHO CANNOT READ NOT SEEK TO LEARN BUT LET THEM CONSIDER THAT THEY SHOULD ABOVE ALL THINGS DESIRE TO HAVE THE SPIRIT OF THE LORD AND ITS HOLY OPERATION; TO PRAY TO HIM ALWAYS WITH A PURE HEART; TO HAVE HUMILITY AND PATIENCE IN PERSECUTION AND INFIRMITIES; AND TO LOVE THOSE WHO ILL TREAT, REPROVE AND CONTRADICT US; FOR THE LORD SAYS: ‘LOVE YOUR ENEMIES AND PRAY FOR THOSE WHO PERSECUTE AND CALUMNIATE YOU: BLESSED ARE THEY WHO SUFFER PERSECUTION FOR JUSTICE’S SAKE, FOR THEIRS IS THE KINGDOM OF HEAVEN. BUT HE WHO PERSEVERES TO THE END, THE SAME SHALL BE SAVED.’ ”

QUESTION VI.

Whether or not the Friars Minor are prohibited by the Rule from studying letters and are commanded to practise mental prayer?

It is to be noted that our Holy Father St. Francis here admonishes his Friars that they should *beware of all pride*, internal in mind as well as external in words, manners, works and conversation, lest they should lose the humility peculiar to the Order of Minors; of all *vain-glory*, lest they should lose the eternal reward of their good works; of *envy*, lest they should deviate from fraternal charity which they ought to show to one another; of *avarice*, lest they sin against the vow of poverty made to God; of *care and solicitude for the things of the world*, lest they should neglect the salvation of their own souls and the practice of good works; of *detraction and murmuring*, lest they should excite quarrels, contentions or disturbances among the Friars who should live together in fraternal charity, peace and concord, so that they can serve God spiritually with joy and alacrity.

It is to be noted (2) that our Holy Father St. Francis further exhorts his Friars to those virtues, the practice of which is peculiarly proper to the Friars Minor, and to which he wished that the entire Rule should aim, namely, the *spirit of the Lord* (that is the spirit of devotion which, according to the interpretation by our Seraphic Doctor St. Bonaventure, makes man most

ready to follow everything which leads to divine worship), *its holy operation* (which is a constant and efficacious stimulant to perform every good act), *prayer with a pure heart, patience in persecution and infirmity, love of enemies and lastly perseverance*, of which virtues the *three first* perfect the man interiorly; the *last three arms against temptation*, while the *last*, namely, *perseverance*, imposes and receives the crown.

This having been noted, I reply, *first*, that there is no precept in the Rule which prohibits the Friars Minor from studying letters. The reason is that these words which are placed in the Rule, "Let those who can not read not seek to learn," are not placed as a precept, or as having the tenor of a precept, nor did Clement V. enumerate this among the precepts. Indeed, Nicholas III. infers the contrary from the burden of preaching placed upon the Friars Minor, saying: "It is evident that this presupposes knowledge; knowledge requires study; but the exercise of study cannot be conveniently had without the use of books." From which it is rightly inferred that he who prescribes that eloquence should be studied, is held to prescribe study, without which studied eloquence could not be. Wherefore these words of the Rule: "Let those who can not read not seek to learn," are an admonition of our Holy Father St. Francis specially affecting the lay brothers whose vocation does not require study, and the pious Father wished to remove at some distance the temptation of studying from them. Thus Hugo de Dina says: "Let each one (according to the Apostle) persevere in that vocation to which he is called." Sometimes, however, this admonition of our Holy Father St. Francis also affects the clerics and Fathers in so far as it condemns that inordinate manner

and end of study by which certain ones desire and labor to have knowledge in order to acquire offices, privileges and dignities in the Order rather than to do what they ought, and neglect the Divine Office, the spirit of devotion, of prayer, of meditation, of humiliation, of mortification, of poverty, of obedience, etc., for the sake of study. Whence Hugo de Dina says: "Religion calls to virtues rather than to dignities; if you wish to be a good student, study by preference the knowledge of goodness and discipline."

I reply, *secondly*, that a Friar Minor is not bound by virtue of a precept of his Rule to practice interior or mental prayer. The reason is that such a precept is not enumerated in the declarations of Nicholas III. and Clement V. Nevertheless, from the intention of our Holy Father St. Francis, a Friar Minor is bound, as by a counsel of the greatest moment, to apply himself in a special manner to internal and mental prayer and meditation, as is evident from these words of the Rule: "They should above all things desire to have the spirit of the Lord and its holy operation; to pray to Him always with a pure heart." And, indeed, from that time in which the exercise of prayer was neglected, the Order has failed and has continually gone to waste. Wherefore Kerckhove declares: "Because, however, all Religious are bound by virtue of their profession under grave obligations to aim at perfection, mainly by the observance of their vows and Rule; and because mental prayer is a special instrument and morally necessary for attaining this perfection, since without it no one, morally speaking, can overcome the most grave temptations arising against the observance of the Rule, it is evident that Religious are not infrequently obliged to

this prayer, and especially Franciscans, who have professed a most difficult Rule, containing twenty-five precepts, obliging under mortal sin; for on account of a want of mental prayer we see Religious who are negligent in this respect, often transgressing most gravely and falling away from the perfection which is required."

From this exposition of the tenth chapter of the Rule it is evident that this tenth chapter contains *two precepts* which oblige under mortal sin. The *first* is that the Friars are obliged to obey their Ministers in all things which are not contrary to conscience and the Rule. The *second* is that the Friars who know that they cannot observe the Rule spiritually ought to have recourse to their Ministers. The tenth chapter further contains *six admonitions*. The *first* is that the Ministers should visit their Friars and should humbly admonish and charitably correct them. The *second* is that the Friars who are subject should bear in mind that, for God's sake, they have renounced their own will. The *third* is that the Ministers should receive such Friars as have recourse to them for the spiritual observance of the Rule, with charity and benignity, etc. The *fourth* is that the Friars should beware of all pride, vainglory, envy, avarice, care and solicitude of this world, detraction and murmuring. The *fifth* is that those who do not know how to read should not be anxious to learn. The *sixth* is that they should strive above all things to have the spirit of the Lord and its holy operation, to pray to God always with a pure heart, and to have humility, patience in persecution and in sickness; etc.

The Rule continues as follows:

CHAPTER XI.

THAT THE FRIARS MUST NOT ENTER THE CONVENTS OF NUNS.

"I STRICTLY COMMAND ALL THE FRIARS THAT THEY DO NOT HOLD ANY SUSPICIOUS INTERCOURSE OR COUNSEL WITH WOMEN."

QUESTION I.

What is prohibited to the Friars Minor in the Rule by the words suspicious intercourse with women?

It is to be remembered that the Friars Minor are forbidden by their vow of chastity (as was said in the exposition of the first chapter) all unchasteness both internal and external, and even such things as would afford a probable occasion for, or incentive to, unchasteness. The reason is that he who prohibits the principal prohibits also the accessories, and we should note these words of Scripture: "He who loves the danger shall perish in it." Wherefore too much familiarity

with women, frequent chats, touching of hands, fixed and inordinate glances are prohibited by the vow of chastity, especially to the Friars Minor, in addition to the fact that they are forbidden to every one by the divine law; so that a Friar Minor, exposing himself to like things, not only sins against the command of God and the virtue of chastity, but also against the vow of chastity and virtue of Religion.

To the question I reply that by virtue of the eleventh Chapter of the Rule concerning the avoidance of suspicious dealings or conversation with women, the Friars Minor are specially prohibited from having any dealings or chat with women which although not evil or though even free from unchasteness, may nevertheless cause the suspicion of unchasteness to arise in one or others.

The reason is that by this special precept of the Rule something new is prohibited to the Friars which is not prohibited elsewhere, but it cannot be anything else than the aforesaid dealings in so far as they may create suspicion. For other things are forbidden by the divine law and by the nature of the vow of chastity which need not be repeated here. This is the opinion of expositors indiscriminately, as Marchant testifies. From this it follows how sublime is the chastity promised by a Friar Minor, and how much it should exceed the chastity of other Religious. For these are bound by virtue of their vow to avoid only those things which are contrary to chastity itself and which afford an incentive for unchasteness; the Friars Minor are, however, bound to avoid also those things which, although they do not occasion unchasteness, may nevertheless create some suspicion of unchasteness or impurity in another, and they are bound to avoid not only active, but also passive

scandal against chastity. And thus it is noted by St. Bonaventure.

From this it follows, *first*, according to St. Bonaventure, Hugo de Dina, the four Masters, and other expositors that such dealings or counsel with women justly create suspicion which are made suspicious: (1) *By the Place*, namely, if it is lonely, separated or dark; (2) *Time*, namely, at night; (3) *Manner*; as if one is alone with a woman; (4) *Gesture*, as if it should be dissolute or too close proximity to the woman; (5) *Action*, as if fixed and lascivious looks, dissolute or scurrilous words, or words savoring of impurity should be used, even if they are equivocal, or if there should be touching of hands, excessive laughter, too familiar jokes; (6) *The age of the woman as well as of the one speaking to her* also goes, as St. Bonaventure says, to arouse suspicion; (7) *The frequency of meetings and of conversations*. By the occurrence of these, therefore, either wholly or in part, a Friar Minor incurs mortal or venial sin according as the suspicion created by such acts is great or light. Moreover, Hugo de Dina thinks that the continuation of any familiarity, after the admonition of a Prelate, is sufficient to create suspicion, for he says: "Any one makes himself suspected who, although he has been dissuaded, especially by a Prelate, does not avoid the association, for such a one neglects obedience and honesty for voluptuousness."

It follows, *secondly*, that suspicious dealings or correspondence with women may exist not only *among those present* but also *among the absent* by means of *letters*. For there may exist other incentives to unchasteness, or objects and signs of suspicion; sometimes even greater ones on account of different ways of writing, or on

account of the delivery of, and report of, different things by messengers. What St. Jerome wrote to Nepotianus bears on this point: "Beware of all suspicions Frequent little presents, and handkerchiefs, and ribbons, and mufflers, and gifts of dainty food, flattering and sweet notes — in these there is no holy love."

The Rule continues as follows:

"AND THEY SHALL NOT ENTER THE CONVENTS OF NUNS EXCEPT THOSE TO WHOM SPECIAL LICENSE HAS BEEN GIVEN BY THE APOSTOLIC SEE."

QUESTION II.

Whether or not the Friars Minor are specially prohibited by the Rule from entering the Convents of Nuns and from having access to them?

It should be noted (1) that by the word *Convents* are to be understood the cloister, house, interior apartments in which the nuns ordinarily live, and to which admission is not allowed to seculars. Nicholas III. so declared. By the word *Nuns* we are to understand all women who are solemnly professed in an Order approved by the Church, and who are commonly called *Moniales*. So Nicholas III. declared.

It should be noted (2) that some Nuns observe strict and apostolic enclosure while others do not. *Strict and apostolic enclosure*, namely that enjoined on Nuns by the Apostolic See and the Council of Trent, is that by virtue of which Nuns cannot, after their profession, go beyond the enclosure unless for some legitimate cause approved by the Bishop, and likewise that no one is permitted, without permission of the Bishop or Superior, to enter within the enclosure of the Convent under pain of excommunication incurred by the act. So Kerckhove. This strict and apostolic enclosure is to be distinguished from other species of enclosure which certain Regular Prelates have introduced in convents subject to them, for example, that certain Nuns cannot go beyond the

limits of their convent without permission of their Prelate, and that such permission is conceded to them readily, even without urgent necessity. Seculars are, however, admitted promiscuously to certain interior parts of the convent, and in these places the Nuns can meet them such as is done in many convents subject to the Abbots of the Cistercian Order of the Congregation of Clairvaux of St. Bernard. But this enclosure is not strict and apostolic, but may be called *merely abbatical*.¹

To the question I reply that the Friars Minor are specially prohibited, by the Rule, from entering the convents of any Nuns who observe strict and apostolic enclosure, except those Friars to whom a special license has been given by the Apostolic See. This is evident from the foregoing text of the Rule: "I strictly command all the Friars — not to enter the convents of Nuns except those to whom a special license has been given by the Apostolic See." This is held by all expositors to be a precept obliging under mortal sin and concerning which Nicholas III. says: "We therefore reply that it is prohibited in general with respect to all convents of Nuns; and by the name of convent We wish to be understood the cloister, houses, and inner apartments; with regard to the other places, where secular men visit, those Friars may also go there for the sake of preaching or of asking alms to whom permission has

¹ In our day the Holy See no longer recognizes vows as solemn which are taken by nuns in some countries even though they belong to Regular Orders properly so called. This is evident from the Papal documents as regards the nuns of Belgium, France (excepting the monasteries in the Duchy of Nice and Savoy), the United States of America (excepting some monasteries of the Visitation). In the monasteries of the foregoing nuns, there is no longer any Papal enclosure.

been conceded by their Superiors on account of their age and fitness."

From this it also follows that the Friars Minor not only cannot enter the convents of the Order of St. Clare which have the strictest enclosure, but also that they cannot enter those of all other Nuns which observe strict and apostolic enclosure, even if the Bishop or a Regular Prelate, namely, the Superiors of such Nuns, should concede to the Friars Minor permission to enter such monasteries, as they are sometimes accustomed to concede it to seculars or other Religious. This is the opinion of Kerckhove and of Miranda whom he quotes. The reason is clear since the Friars Minor cannot, on account of their Rule, and of the declaration of Nicholas III., enter the convents of any Nuns observing strict and apostolic enclosure, *except those Friars to whom special license has been given by the Apostolic See;* but a license to enter such convents conceded by a Bishop or a Regular Prelate *is not specially given to the Friars Minor by the Apostolic See;* otherwise there would be no need of the following special concession of the Apostolic See to which Lantusca refers thus: "Friars Minor who are invited by Prelates of churches or by Religious Prelates or Visitors of other Nuns to visit their monasteries or to perform any other office of jurisdiction, can enter the same, provided, if they are subjects, that they do so by permission of their Prelates." This privilege is also referred to in the compendium of our privileges, and Kerckhove declares that it was not revoked by Gregory XIII. by the Bull *Ubi Gratiae.* Therefore.¹

¹ This concession does not seem to have been revoked by the Constitution "*Salutare*" of Benedict XIV. of Jan. 3, 1742, because this concession is not, strictly speaking, a privilege

I have said in the reply "*Nuns observing strict and apostolic enclosure,*" for it is more probable, as Kerckhove says, that Friars Minor do not sin against their Rule, if even without legitimate cause, they should enter the convents of Nuns who do not observe enclosure. The reason is (1) that the Rule, while it prohibits the Friars to enter the convents of Nuns, immediately adds: except those to whom special license has been given by the Apostolic See. But the license which the Apostolic See gives is for convents only in which enclosure is observed. Therefore the Rule is also to be understood as referring to convents of Nuns only in which enclosure is observed. (2) Because Nicholas III. in declaring that the Friars Minor cannot, by virtue of the Rule, enter the convents of any Nuns, meant by the name of convents, the cloister, houses, inner apartments to which secular men do not go; but the convents of Nuns not observing enclosure have not got a cloister, houses, interior apartments to which seculars may not go without sin. Therefore the Rule does not refer to such convents of Nuns, nor does the Pope in explaining the Rule. (3) From the practice and universal custom by which learned and conscientious men enter such interior places without scruple, namely, the refectory, garden, workshop, etc., in the convents of Nuns who do not observe enclosure. *Ergo.*

I reply, *secondly*, that it is lawful for the Friars Minor to enter the convents of Nuns in all cases in which the Apostolic See permits it. This is evident

against the general law of enclosure, but it is merely a concession, in virtue of which the Friars Minor may enter the enclosure, as companions of Prelates of the Nuns, who already possess from the Holy See the faculty of entering.

from the present chapter of the Rule where it is said : "I strictly command etc. not to enter the convents of Nuns except those to whom a special license has been given by the Apostolic See." The cases for which it is lawful to concede such entry into the convents of Nuns can be reduced to *three heads*: namely, on account of real necessity; spiritual utility; due administration of the Sacraments. On account of *real necessity*, and this from the nature of things because necessity knows no law, the Friars Minor may enter the convents of Nuns to extinguish fire; to eject thieves; to repulse enemies or any violent persons; to restrain one who is demented; to help the sick by necessary service, and to perform other necessary works of the same kind, provided, that otherwise sufficient aid cannot as yet be obtained. By reason of *spiritual utility*, either the Minister General with two companions or the Provincial with one companion may enter the cloister once a year to make the local visitation. By reason of the *administration of the Sacraments*, those may enter whom it behoves to hear the confessions of the sick who are kept in bed and to administer the Eucharist and Extreme Unction. Kerckhove declares that the confessors of Nuns have just cause for entering to administer the Sacraments, not only by way of Viaticum at the approach of death, but also as often as, by the precept of the Rule, or by praiseworthy custom, the rest of the Nuns are accustomed to communicate and when there is some one who is not able to come to the grate without detriment to her health. This is the opinion of Rodriguez who adds that the same is to be said as often as a sick Nun declares she is in need of going to confession. In like manner, it would be a just cause for entering that

the confessor should be present when one is dying. When, however, the confessor enters the cloister in the aforesaid cases, he should always be vested with a surplice and stole. Moreover, Alexander VII. prescribed that in Italy and the adjacent islands, a Regular Confessor cannot so enter unless accompanied by a companion of probity and of mature age.

I reply, *thirdly*, that there is no precept in the Rule or in the Pontifical declarations by which the Friars Minor are prevented from having access to the convents of Nuns. This is the opinion of Marchant and Kerckhove. The reason is that the Rule says nothing *about access* to the convents of Nuns, but only *about entering them*; and the Pontifical declarations on the Rule do not impose a new precept but only explain the precepts contained in the Rule.

The Rule continues as follows:

“NOR SHALL THEY BE GODFATHERS TO MEN OR WOMEN, LEST ON THIS ACCOUNT ANY SCANDAL SHOULD ARISE AMONG THE FRIARS OR CONCERNING THEM.”

QUESTION III.

**Whether or not all sponsorship is forbidden to the Friars
Minor by this precept of the Rule?**

It is known that *sponsorship* is contracted in two of the Sacraments, namely, in Baptism and in Confirmation. Such is the opinion of Theologians and Canonists. Moreover, in either of these Sacraments a twofold sponsorship is contracted. *First, on the part of the one baptizing or confirming* who by the act of baptizing and confirming contracts sponsorship with the father and mother of the person baptized and confirmed. *Second, on the part of the god-parents in Baptism or Confirmation* which they contract with the father and mother of the one baptized or confirmed by the fact of acting as god-parents for the one baptized or confirmed. It may now be asked whether or not both these sponsorships are prohibited to the Friars Minor or only the second one?

I reply that only the sponsorship contracted by acting as god-fathers for children in the Sacrament of Baptism and Confirmation is forbidden to the Friars Minor by a precept of the Rule under mortal sin. The reason is that this alone can create scandal under the present precept. Wherefore a Friar Minor may baptize

not only licitly in case of necessity and is indeed obliged to do so out of charity, but may also solemnly baptize even when there is no necessity if he is a priest or deacon and has a commission to baptize from the parish priest.

From this exposition of the eleventh Chapter of the Rule it is evident that this eleventh Chapter contains *three precepts* obliging under mortal sin. The *first* is that the Friars should have no suspicious dealings or counsel with women. The *second* is that they should not enter the convents of Nuns. The *third* is that they should not become sponsors of men or women.

The Rule continues as follows :

CHAPTER XII.

OF THOSE GOING AMONG THE SARACENS AND OTHER INFIDEELS.

"ANY OF THE FRIARS WHO, MOVED BY THE DIVINE INSPIRATION, DESIRE TO GO AMONG THE SARACENS AND OTHER INFIDEELS, MUST ASK LEAVE FROM THEIR PROVINCIAL MINISTERS. BUT THE MINISTERS SHALL GIVE PERMISSION TO NONE BUT THOSE WHOM THEY DEEM FIT TO BE SENT."

QUESTION I.

What fitness is required in a Friar Minor in order that he should be sent among infideels?

It may be observed (1) that as our Holy Father St. Francis previously instructed in his prayers from above, did not wish to live for himself alone but also to be of use to others; thus also he wished that the Friars in his Religion should seek not only the salvation of their own souls, but should also procure the salvation of

their neighbors *by fervent preaching and by the conversion of infidels*. Nevertheless our most wise Father left it free to his Friars either to go or not to go among the infidels, even divine inspiration being supposed. For he says: "Any of the Friars who, moved by the divine inspiration, desire to go among the Saracens and other infidels;" that is, who wish to follow a divine inspiration. For a divine inspiration of this kind is set forth by way of counsel and not as a precept, because St. John says: "Dearly beloved, believe not every spirit, but try the spirits if they be of God: because many false prophets are gone out into the world." (I. Epis. IV. 1). Wherefore our Holy Father St. Francis required of his Friars that when anyone thought he felt such a divine inspiration and desired to follow it, he should make the same known to his Provincial and then beg leave of him. But if the Provincial should refuse, he may write directly to the Minister General. If both should refuse him the permission asked for, then such a Friar could not with a safe conscience go forth among the infidels under the pretext that he had a divine inspiration to go among them. For God never gives an inspiration to do anything against the will and obedience of Superiors who take the place of God. It should be added that this is also forbidden in canon law, namely, to go among the infidels without permission of Superiors. And it is clearly evident from what is said in the Rule: "They must ask leave from their Provincial Ministers."

It is to be noted (2) that our Holy Father St. Francis admonishes his Friars who are Provincials that they "shall give permission of going among the infidels to none of the Friars but those whom they deem fit to be sent." For if the Provincials should permit Friars to

go among the infidels whom they considered unfit to go, then they would sin mortally against the natural, divine and ecclesiastical law as Corduba, quoted by Kerckhove, testifies.

This having been noted, I reply to the question that the fitness required in a Friar Minor, in order that he should be sent among the infidels, is described by our Seraphic Doctor St. Bonaventure in the following words: "Those are fit who are robust in body; constant in faith; tried and irreprehensible in their life." And more fully by Bartholomew of Pisa when he says: "Fitness looks to scholarship, to sanctity of person, observance in life, zeal and fervor in faith, to contempt of the world, perfect mortification of self, etc." All this is true, and yet it is to be left to the judgment of the Superior, considering the nature of the circumstances and purpose for which they would go to the infidels; for some go to teach and preach; others to edify by their example; others to administer to the faithful and wash the beautiful feet of those who preach the Gospel (Rom. X. 15).

The Rule continues as follows:

"MOREOVER I COMMAND THE MINISTERS UNDER OBEDIENCE THAT THEY ASK OF THE LORD POPE ONE OF THE CARDINALS OF THE HOLY ROMAN CHURCH, WHO MAY BE THE GOVERNOR, PROTECTOR AND REFORMER OF THIS FRATERNITY; THAT BEING ALWAYS SUBJECT AND SUBMISSIVE AT THE FEET OF THE SAME HOLY CHURCH, AND STEADFAST IN THE CATHOLIC FAITH, WE MAY OBSERVE THE POVERTY AND HUMILITY OF OUR LORD JESUS CHRIST, AND THE HOLY GOSPEL, WHICH WE HAVE FIRMLY PROMISED."

QUESTION II.

**Whether or not each and all of the Ministers are bound
to ask for a Protector of the Order?**

It should be noted that the authority of the Cardinal Protector of our Seraphic Order has been restricted by the Supreme Pontiffs to three cases; namely, (1) *In heresy*, when the Friars or our Order should deviate from the true Roman Catholic faith. (2) *In schism*, when they should withdraw from obedience to the Roman Pontiff or the Roman Church. (3) *In relaxation of the Order*, when they should turn aside from the observance of the Rule. It was so decreed by Gregory IX. And this decree is based on the words of the Rule “*that always subject at the feet of the Holy Church (behold obedience against schisms), steadfast in the Catholic faith (behold unity of faith against heretics), we may observe the poverty and humility of our Lord Jesus Christ, and the holy Gospel, which we have firmly promised (behold observance of the Rule against relaxations)*”. Gregory IX. declared that any other things which the Protectors would attempt would be invalid and futile.

This having been noted, I reply to the question if the Minister General should fail in this duty of asking

of His Holiness the Pope a Protector for our Seraphic Order, the Ministers are bound, under mortal sin, to ask the Supreme Pontiff for a Cardinal of the Holy Roman Church as Governor, Protector and Reformer of our Seraphic Religion. The reason is that this precept, by virtue of the words of the Rule, concerns all the Ministers, and as it is commanded under obedience, it certainly obliges under mortal sin. I say, if the Minister General should fail in this duty of asking, etc., that is, if the Minister General does not ask the Supreme Pontiff for a Protector of our Order, then the Provincials are bound to ask for one; if, however, the Minister General asks for one, in the name of the whole Order, and primarily in the name of the Provincials, the precept of the Rule is already satisfied and the Provincials are not bound to ask. If, however, the Supreme Pontiff would not give a Protector for our Order, the precept is nevertheless satisfied by the petition having been made. And indeed it happened in the year 1730, when the Minister General asked the Supreme Pontiff Clement XII. for a Protector for the Order, that the Pope refused to give one saying, that since he himself, while as yet a Cardinal, had become Protector of our Order, thus also when created Pope he wished to remain Protector of the Order until his death.

From this exposition of the twelfth Chapter of the Rule it is clear that this twelfth Chapter contains *one precept* obliging under mortal sin, namely, that the Ministers ask of His Holiness the Pope one of the Cardinals of the Holy Roman Church as Governor, Protector and Reformer of this Fraternity. This chapter further contains *one admonition*, namely, that Ministers should not grant leave to go among the Saracens and other infidels

except to those whom they judge fit to be sent. Lastly it also contains *one license*, namely, that Friars may or may not go among the Saracens and other infidels.

The remainder of the Bull of Honorius III. in confirmation of the Rule of the Friars Minor now follows:

"TO NO ONE THEREFORE BE IT ALLOWED TO INFRINGE ON THIS PAGE OF OUR CONFIRMATION OR TO OPPOSE IT WITH RASH TEMERITY. BUT IF ANY ONE SHALL PRESUME TO ATTEMPT THIS, BE IT KNOWN TO HIM THAT HE WILL INCUR THE INDIGNATION OF ALMIGHTY GOD AND OF HIS HOLY APOSTLES PETER AND PAUL.

GIVEN AT THE LATERAN, ON THE TWENTY-NINTH OF NOVEMBER, IN THE EIGHTH YEAR OF OUR PONTIFICATE."

INDEX.

A.

Abdication, entire demanded by vow of poverty, 177.
Abstinence, in what it consists, 82; when required, 84, 88; on Saturdays, 86.
Access to Convents of Nuns not prohibited, 245.
Ad Litteram, Observance of Rule, 12; meaning of, 14, 16; what it requires, 17, 22; to be considered literally, 26.
Admission to Order, requisite conditions for, 52; preliminary acts to, 54; Provincial may delegate power to others for, 49, 59; balloting for, 60.
Admonition, of St. Francis, on judging, 70, 90; to avoid evil, to do good, 91; on pride, etc., 232; by Superiors, 213.
Advice, what may be given as to disposition of goods, 57.
Age of Friars as to fasting, 84, 86, 88.
Alms, disposition of, 112, 115; reception of, 117; indifferent, what are, 132, 133; pecuniary, when may be received, 137, 139, not to be collected, etc.,

140; specified, how to be applied, 138; when lawful to communicate same with other Convents, 139.
Apostacy from Order, 61; a reserved case, 186.
Apostates, use of goods of, 110; from Order, who are, 186.
Apostolic, Syndics, *see* Syndics; Enclosure, *see* Enclosure.
Appropriation of things, *see* Use.
Attention, formal, actual, virtual, habitual, external, internal, 74; what it precludes and requires, 75.

B.

Barter, *see* Exchange.
Begging, definition of, 124; manner of, 141, 167; Friars obliged to do some, 172.
Boats, Friars may use, when, 96.
Bull of Pope Honорius III., 31.
Buy, Friars can not, 112, 163, 167; but may, when, 164; Syndics should, 113.

C.

Canonical Hours, *see* Office.
 Caparone, in what it consists, dispensing with, when, 59.
 Capuche, *see* Hood.
 Carnal coition, a reserved case, 191.
 Carriages, use of, *foot note*, 95.
 Chapter, of Pentecost, 202; Provincial, 204.
 Chastity, vow of, effect of and to what it obliges, 40, 238.
 Choir, recitation of Office in, duty of, 78.
 Church, obedience towards under the Rule, 42; receives dominion of money, when, 108, 109, 111; fasts prescribed by, 86, 88.
 Civil obligations, Friars not permitted to assume, 163, 165, 168.
 Cloak, *see* Mantle.
 Clothes, of probation, 58; quality of, to be worn, 69; mending of, 70; wearing of secular, 105; poorness of, not consisting in one thing, 130. *See* Garments, Habit.
 Collation during Fasts, 87.
 Collection boxes in churches of Order prohibited, 141.
 Commands of Superiors, gravity of matter, 218; what are, 219.
 Concessions made in Rule can be prohibited by Superior, 226.
 Confessors, power in reserved

cases, 194, 195; outside the Order, 198.
 Consent, of Superiors, required in use of things, 37, 160, 169.
 Constitutions, General, how far binding, 220.
 Contagious diseases, Friars to be served during, 180.
 Contracts, Friars cannot make, 148, 150, 163.
 Convents of Nuns, explanation of phrase, 240, 241; entrance into forbidden, 241; permission to enter by Superiors of Nuns not sufficient for Friars, 242; not comprehended by Rule, 243; when Friars may enter, 244; access to, not forbidden, 245.
 Cord, *see* Girdle.
 Correction, how made, 213.
 Court, action in, 118, 120, 143, 174; attendance as party in, 157; false swearing in, of Regulars, a reserved case, 189.

D.

Defamation of Order, a reserved case, 192.
 Dismissal, *see* Expulsion.
 Disobedience, contumacious, a reserved case, 191.
 Dispensation, of simple vows, 61; for wearing extra garments, 66; from Fast on Fridays, *foot note*, 90; distinction between interpretation and, 222; what is not a, 223; what is a, 224; just causes for, 224;

when ceases, 225; renewal of, when not required, 225; may be imposed under precept, 225, 226.

Divine Office, *see* Office.

Dominion, of money, 104; remains with donor until, 107, 108, 111; passes to Church when renounced, 108, 111, 155; held neither by Friars nor Order, 154. *See also* Radical.

Donation, *see* Gifts.

Donors, retain dominion of money until, 107, 108, 111; can administer their own goods, 116, 138; gifts of, how construed, 139, 167; retain dominion of gifts until consumed, 154, 155, 166.

Doubt, in obedience, 35; decision in, lies with Superior, 130.

Drawers, material of, 59; part of habit, 64; duplicate, 65.

E.

Eggs, use of during Fast, 84. Enclosure, Apostolic, what is, 240; entry into, when allowed, 244; *see also* Convents.

Epikeia, use of, 224.

Exchange, in what it consists, divisions of, civil not permitted, 165; natural and ministerial permitted, 166.

Excommunication, when incurred through vagabondage, 67; absolution from, 195.

Expulsion, of Novices, by vote; by Provincial, liberty of, 60; effect of, on obligations after simple profession, 61.

F.

Fast, essence of, 82; quantity and quality of food, 83; prescribed by Rule, who must observe; customs of; Sundays within, 84; of Epiphany, and Sundays within, 85; prescribed by Church, 85, 86; on Saturdays, 86; interruption of principal meal, 86, 87; collation, 87; no obligation in evident necessity to, 88; in old age, 88; in infirmity, hard work, 89; equal necessity for precepts of Rule and Church, 90; indults, *foot note*, 90.

Faults, manifestation of, 215.

Femoralia, *see* Drawers.

Forgery, a reserved case, 189.

Foundation upon which Order rests, 14, 47.

Friars Minor, who are, 32; meaning of name of, 33; not bound under mortal sin to observe whole Gospel, 34; duties of, with regard to postulants, 47; degree of Faith required in, 52; must observe Rule without privileges, 61; cannot leave Order, 61; vagabondage of, excommunication, 67; may eat food set before them, 92; receipts of,

how given, 121; recourse to spiritual friends, when, 125; may aid others, when, 135; privileges of, 156; cannot be appointed heirs, 173; should assist one another, 179; not to preach against objection of Bishop, 207.

Fridays, indults from fasting on, *foot note*, 90.

G.

Garments, contrary to Rule, 65; dispensation for, 66; worn during sleep, 67; quality of, 69; mending of, 70.

General, *see* Minister General.

Gifts, by Friars, 167, 168.

Girdle, what it is, 59; must be of wool, 64.

God-Father, *see* Sponsorship.

Goods, movable and immovable, money acquired by sale of, 109; of apostates, 110; who may sell, 111.

Gradual Psalms, recitation of, 76.

Guardian, or other priests may invest Novices with delegated power, 49, 59, but cannot subdelegate, unless, 50; may have recourse to spiritual friends, when, 124; may judge of use of things, 159; may exchange, 166, 167; have not power to reserve cases, 184; cannot delegate power to absolve Friars to others outside the Order, 199.

H.

Habit, precepts concerning, bind under mortal sin, 46; nothing can be demanded in recompense for admission to, 56; of Novices, 58; of professed, 63, 64; form of, 64; not to be put off recklessly under pain of excommunication, 67; wearing of, among infidels, 105; compensation for, when given to deceased seculars, 149. *See also* Garments, Clothes.

Halbe Strümpfe, 68.

Half Hose, 68.

Hats, when permitted, 67.

Hire, things let out for, 167, 168.

Hood, difference of, with Novices, 58; but one for professed, 63; double hoods on journey permitted, 67.

I.

Ignorance of obligation does not excuse, 27; gravity of sin committed through negligence, 28.

Impediments, to profession, what are to be considered as such, 53.

Impeding letters maliciously, 190.

Indults regarding Fasts, *foot note*, 90.

Infidels, *see* Missions.

Infirmarian, duties of, 180.

Intention, habitual, to aim at religious perfection is required always, 18; formal, 73; actual, virtual, habitual, 74.

Interest, Friars not permitted to collect, 168.

Intermediary, money not to be received through, 101; who is an, 102, 140; Syndic not an, 113; spiritual friend, not an, 123.

Interpret, who may, 14, 222.

Interpretation, distinction between dispensation and, 222.

Inspirations, divine, how to act under, 249.

J.

Jackets, 65; dispensation for linen, 66.

Journeying, privileges enjoyed during, 67; behavior during, 91, 92.

K.

Killing, a reserved case, 188.

L.

Labor, money in recompense for, belongs to Church, 108, 117; recompense for, is no recourse to spiritual friends, 124; manner of, 144, 145; no precept for, 145; what things may be received in recompense for, 147; recompense for, under contract, prohibited, 148; of Friars, things

made by, may be sold by Syndics, 149.

Lacticinia, Fast as to, 84.

Laws, what are, 220.

Lay Brothers, office of, in Rule, 72; must recite "Our Father's", but need not add "Hail Mary's"; omission of one minor hour, a sin; must recite with attention and intention, 79; time of reciting office; may anticipate Matins and Lauds; office neglected to be recited on one day need not be recited on next; must pray for the Dead, 80.

Legacy, reception of, 100; disposition of, by Syndic, 112, 115, 165; recourse to court for, 118, 148; when may be received, 137, 178.

Leggings, wearing of, 68.

Lent, *see* Fast.

Letters, maliciously impeding, delaying, opening, a reserved case, 190.

Linen garments prohibited, unless, 65.

Litanies, on Rogation Days and Feast of St. Mark, 75.

Luxury against vow of poverty, 37.

M.

Mantle, may be worn, 64.

Matins with Lauds, when they may be recited, 77.

Matrimony, invalid if contracted by solemnly professed,

- 40; entrance into Order after, 52, 53.
- Meal, *see* Fast.
- Mendicancy, doing away with, prohibited, 172, 174, 175.
See also Begging.
- Minister General, successor of St. Francis, 44; obedience due, 45; may receive postulants for whole Order, 49; nominates Syndic, 112; has power of reserving cases, when, 184; election of, 201; term of office of, 202; incompetency of, 204; approbation by, of preachers, 208; duty of asking for Protector of Order, 251.
- Ministers, recourse to, when obligatory, 227; when not necessary, 228; manner of receiving subjects by, 230.
- Missions, Foreign, who may go to, 249; requisites of those going to, 250; Provincials to judge, 250.
- Money, what is, 99, 100; cannot be received, 101; what is receiving, who receive against precept, 102; in extreme or grave necessity may be received, 103; simple actual use of, 104, 107; material handling of, curiosity, custody, no sin, 105; remains in dominion of donor, 107, 111; passes to Church and Pontiff, when, 108, 109, 111; for necessities of Friars, 108; left by will, 109; from goods of apostates, 110; not to be placed on interest, 118; recourse to, pertains to whom, 137; deposits of, excess in, 138; Friars not to collect or accompany collectors, 140; collection boxes for, in churches of Order, prohibited, 141; borrowing of, 142.
- Mortal sin, precepts binding under, 20; all contained within Gospel, not obliging under, 34; against vow of poverty, when, 38; against obedience, when, 218.
- N.**
- Necessities of Friars, money left for, 108, 109; Syndic to provide for, 113; recourse to spiritual friends for, 114, by Superiors only, 124; what are, 127; no exact specification required in recourse for, 138.
- Necessity, what is sufficient, for wearing extra garments, 66; in evident, Friars not bound to fast, 88; degree of, during fast, 90; evident, required for riding, 93; what may be evident for riding, 96; extreme and grave required to receive money, 103; real, etc., must exist to receive alms, money, etc., 117; conditions of real, 132, past, present, imminent, future, 131; exists when in-

- different alms have ceased, 133; of Friars, when existing, 134; requesting things without real, etc., sin, 137.
- Novices, investiture, profession of, admission of, to Order, by whom, 50; disposing of temporal goods, 54; good will suffices, 55; liberty of, in disposing, 55; payment by, for support, condemned, 57; profession of, when, 59; voting for, 60; expulsion of, by Provincial, 60.
- Nuns, who are, 240. *See also* Convents.
- O.**
- Obedience, vow of, to what it obliges, 35, 217; towards Roman Pontiff under Rule, 42; to Minister General, 45; sins against, 218.
- Observance of Rule, grades in, 25. *See also* Rule.
- Office, Divine, 72; definition of, manner of saying, 73; attention and intention required, who must recite, 74; what constitutes notable part of, 75; recitation of, 75; changing of, error in, 76; inversion of, 77; time of reciting, 77, 78; recitation of, in choir, 78; of Dead, 75; of B. V. M., recitation of, outside choir, 76; of Lay Brothers, *see* Lay Brothers.
- Old age, sufficient necessity for wearing extra garments, 66; excuses from fasts of Church, 86, of Rule, 88.
- Order, Friars cannot leave, 61, 186, except, 62; fasts of, 84, 86; sins reserved in, 185; defamation of, a reserved case, 192.
- Orders observing First Rule, 10.
- P.**
- Penance, inflicted for reserved cases, 184.
- Perfection, Friars must strive to acquire; this obligation not distinct from obligation under Rule, vows, etc., 17.
- Permission, of owner, required for use of things; explicit and implicit, 37; of Superiors, when necessary, 66; for going among infidels, etc., 249.
- Penitential Psalms, recitation of outside choir, 76.
- Pollution, a reserved case, 191.
- Pope, *see* Supreme Pontiff.
- Postulants, manner of receiving, not to be impeded but sent to Provincial, 47; unsuitable, need not be sent, 48; requisite conditions in, 52; to dispose of goods, when, 54.
- Poverty, vow of, effect of, 36, 177; to what it obliges, 37, 111, 157; poor use, not in-

- cluded in, 158; definition of, rights retained after taking vow of, 151, 152; motives of St. Francis for, 176; apex of, 177.
- Prayer, mental, no precept for, 234; importance of, 234.
- Preachers, of Order, 206; preaching against objection of Bishop, 207; approbation of, 208; examination of, 209; manner of preaching, 210.
- Precepts, of Rule, 20, seq.; how to be considered with vows, 23; when end ceases, precept ceases, 48, 50; may be imposed by Superiors, 218; not every transgression of, a mortal sin, 220; may be interpreted by Superiors, 222; causes for interpretation of, 223; Superiors can dispense from, 224.
- Privileges, of Friars, enjoyed by simple professed, 61; Rule to be observed without, 61; to eat of food, 92; spiritual, 156; of entering Convents of Nuns, when, 242.
- Procurators, *see* Intermediary.
- Profession, knowledge required before admission to, 27; simple, requires observance of Rule, 30, 60; solemn, to be made, when, 30; precepts concerning, bind under sin, 46; of novices, when, 59.
- Proprietorship, renounced by Friars, 36, 154; who sin by,
- 37, 160; of money, 104; definition of, 152; reserved case, 187.
- Protector, of Order, duties of, 251; duty of asking for, 252.
- Provincial, receives postulants, 47, 49; may delegate this power, 49, 59; bound to examine novices, when, unless, 50; to warn novices to dispose of temporal goods, 54; may expel novices, when, 60; power to reserve cases, when, 184; may absolve from cases reserved, can delegate power for absolving, within Order, 194, without, 198; power of approving preachers, 208; manner of receiving subjects, 230.
- Provisions, necessity of making, 175.
- Psalter, meaning of, in Rule, 78.
- Q.**
- Quest, manner of proceeding during, 141.
- R.**
- Radical Dominion, retained by simple professed, 30, 37, 55; solemn professed cannot have, 36, must renounce, 55; *see* Dominion.
- Railroad cars, decision of S. Cong., *foot note*, 95.
- Reception, *see* Postulants.

- Recourse, to Ministers, *see* Ministers; to spiritual friends, *see* Spiritual friends.
- Reserved cases, who have power to make; what penance may be inflicted, 184; must be public sins, 184; personal recourse for, not necessary; what are, 185; who may absolve from, 194, 198; absolution from Papal cases, 195.
- Revelation of St. Bridget, 12.
- Revenues, annual, not permitted, 172.
- Ride, meaning of, 92; forbidden to, on horseback, 93; vehicles not forbidden, except pomp, expense, scandal, 94, 95; decision of S. Cong., *foot note*, 95; when necessity exists for riding, 96. *See* Boats.
- Rights, retained after profession, 151; civil, 154, 165.
- Rogation Days, *see* Litanies.
- Rule of Friars Minor, most perfect, 11; dictated by our Lord, 12; contains more precepts than any other, 13; foundation of, 14, 47; who may interpret, 14; who observe, 15, 26; how does it bind, 19; spiritual observance of, when said to be impossible, 227. *See* Observance.
- Rules written by St. Francis, 9, 10; which to be observed, 9; Orders observing First Rule, 10.
- S. Sandals, wearing of, 68.
- Saracens, *see* Missions.
- Scandalous publications, reserved case, 192.
- Seal of Superior, falsification of, reserved case, 189, 190.
- Sell, who may, 111; Syndic should, 113; Friars not permitted to, 164; but may, when, 164.
- Shirts, 65; dispensation for linen, 66.
- Shoes, prohibited, 67; what are; use of; dispensation for wearing, 68; necessity exists for, when, 69.
- Sick, serving of, 180.
- Sickness, after profession, no cause for expulsion, 61; fast during, 89; patience in, 181.
- Simple actual use, *see* Use.
- Simple Professed, to what they are held, 30, 61; retain radical dominion, loose right of use, 37, 55, 61; privileges of, 61.
- Simple Vows, novices at completion of novitiate should take only, 30; time of taking, 59; effect of, 61; dispensation from, 61.
- Sin, precepts binding under mortal, 20; when committed against vow of poverty, 37; gravity of, 38; against chastity, malice of, 40; against obedience, 35, 191, 218. *See* Reserved cases.

- Slippers, wearing of, 68.
 Socks, wearing of, 68.
 Solemn profession, when made, 30; its effect with regard to vow of poverty, 36; to what it obliges, 37; destroys radical dominion, 55; requires observance of Rule without privileges, 61; demands recitation of Office, 74.
 Spiritual friends, recourse to permitted, 114, Superiors only, 124; who are, 122; not intermediaries, 123; recourse to, in what it consists, 123, 125; when recourse may be had, 127, 131, 133, 134, 139.
 Sponsorship, who contract, 246; what is forbidden, 246.
 Striking seriously, another, a reserved case, 188.
 Study, not prohibited by Rule, 233.
 Successor of St. Francis, who is the, 44.
 Superfluous things, against vow of poverty, 37; not accepted by Supreme Pontiff, 117; recourse for, to spiritual friends, not lawful, 129; prohibited, 157; responsibility for use of, 160; sin committed by, 161.
 Superiors, duties of, as to Divine Office in choir, 78; to dispense subjects from fast, *foot note*, 88; may direct Syndics, 119; may have re-course to spiritual friends, 124; for money, 137; to judge in regard to use of things, 159; cannot concede unlimited use of things, 161, limited use, 162; may exchange outside Order, 167; care of sick by, 180; may determine penance in reserved cases, 195; duties of, admonition, correction, etc., by, 213, 214. *See also* Precepts, Interpretation, Dispensation, Concessions.
 Supreme Pontiff, declarations of, do not bind under sin, except, 24; obedience to, 42; dispensation of simple vows reserved to, 61; assumes dominion of money, when, 107, 111, 120; of other goods, 112, 120, 155; disposal of such goods by Syndic, 114.
 Suspicion, aroused by dealings with women, when created, 238.
 Swearing, false, in court of Regulars, reserved case, 189.
 Syndics Apostolic, nomination of, appointment, duties of, 112, 113, 115, seq.; may be several for one convent, 112, 119; not intermediaries, lawful to use, 113, 120; act in name of Pope and Church, 115, 118; may act as substitutes for donors, 117; power of, restricted; to be admonished, 117; use of things in

their keeping, 117; direction of, by Friars, 119; not spiritual friends, 122; can sell labor of Friars, 149, also movable property, 164, immovable, 165; exchange can be made without intervention of, 167; may let out some things for hire, when, 168.

T.

Temporal goods, disposal of, when required, 54, how affected, liberty in, Friars not to meddle with, 55; freely given, may be received, 56. Testament, of St. Francis, does not bind under sin, except, 24. Theft, reserved case, 187. Travelling, *see* Journeying. Tunics, number of, for professed, 63; wearing of a third prohibited, unless, 65; dispensation for, 66.

U.

Undershirts, 65. Use, of things against poverty, 37; permission required for, 66; of money, 101, 107, simple actual use of money only, when, 104, Friars capable of, 108; strict and moderate, 129; stricter in eating and drinking, Friars not bound to, 130; simple actual, definition of, 152, 155; pos-

sessed by Friars, is separable from dominion, 154, 160; strict use and things prohibited under, 157; poor, 158; Friars held to poor, 159; moderate, 159; unlimited, prohibited, 161, but limited, allowed, 162.

V.

Vagabondage, 67. Vehicles, *see* Ride. Vespers, time of reciting during Lent, 77. Vests, 65. Visitation, what it implies, 213; manner of acting during time of, 215. Voice, active and passive, time of reckoning, 61. Votes, for novices, by whom cast, 60. Vows, taken in profession, 9; how to be considered with precepts, 23; every transgression of, not a mortal sin, 220. *See* Simple Vows.

W.

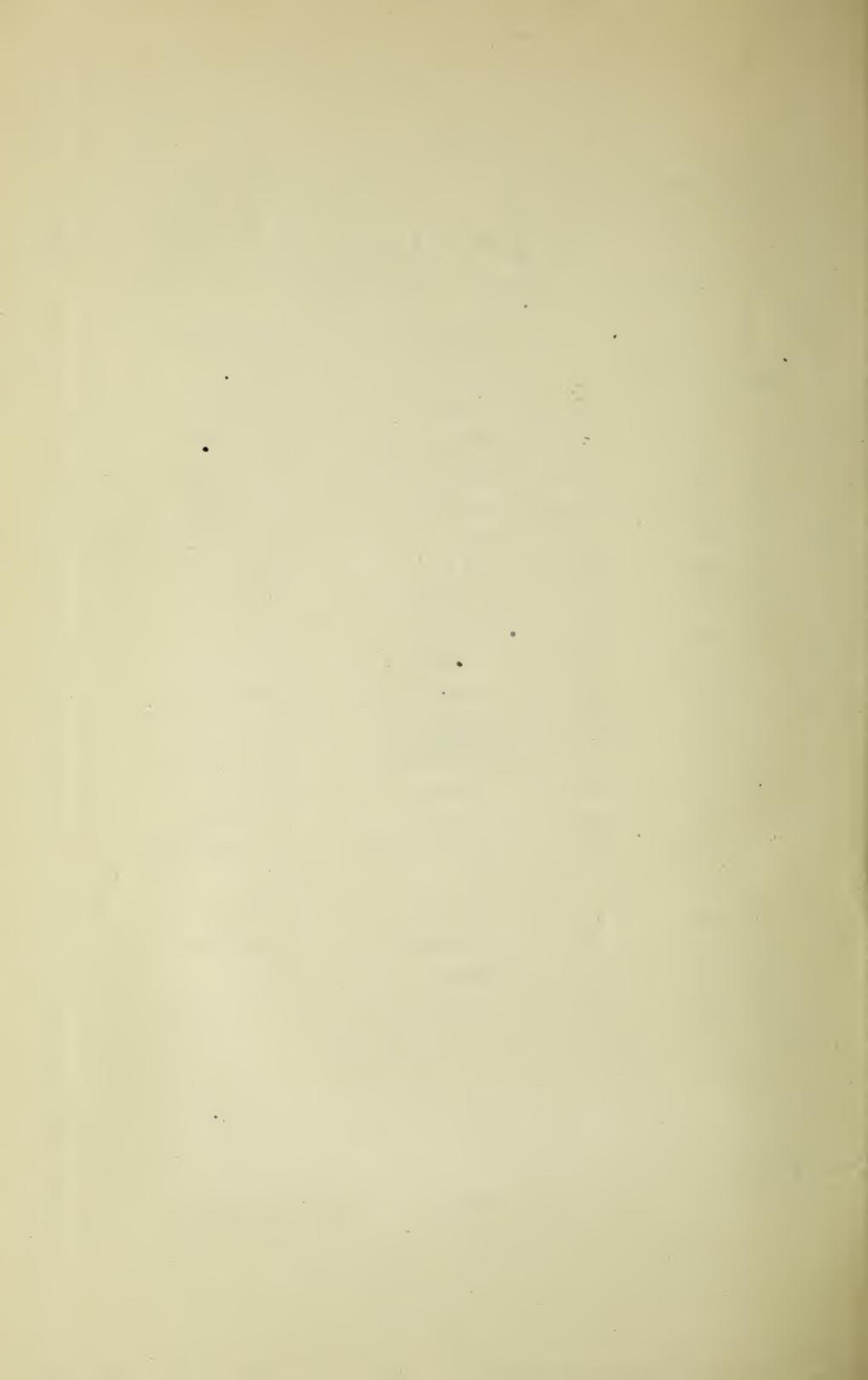
Wills, legacy under, reception of, 100; money left by, 109; executors of, to whom bound, 110; administration of, by Syndic, 112, 115, 165; recourse to court for, 118, 148; gifts under, when may be received, 137, 173.

- Women, familiarity with, forbidden, 236; suspicious dealings with, 237; modes of suspicious dealings with, 238.
- Work, dirty, a sufficient necessity for extra garments, 66; hard, excuses from fast, 89; recompense for, belongs to Church, 108.
- Work, dirty, a sufficient necessity for extra garments, 66; hard, excuses from fast, 89; recompense for, belongs to Church, 108.
- Wounding, reserved case, 188.



E R R A T A.

	ERROR.	CORRECTION.
Page 26, Line 11.....	litteral	literal
" 30, " 24.....	I reply	In reply
" 34, " 11.....	moret hings	more things
" 50, " 8.....	Kerkhove	Kerckhove
" 52, " 17.....	preserve	persevere
" 60, " 4.....	asare	as are
" 68, " 25.....	tha tit	that it
" 80, " 9.....	ommitted	omitted
" 84, " 13.....	<i>laticinia</i>	<i>lacticinia</i>
" 84, " 15.....	<i>laticinia</i>	<i>lacticinia</i>
" 86, " 33.....	need not to be	need not be
" 89, " 10.....	yeary	years
" 90, " 17.....	PERMITFED	PERMITTED
" 94, " 17.....	whithout	without
" 118, " 33.....	anymore	any more
" 129, " 19.....	<i>Ex praemissis</i>	<i>Ex praemissis</i>
" 138, " 5.....	bat	but
" 138, " 13.....	rolived	relieved
" 141, " 3.....	appearnce	appearance
" 142, " 11.....	Frior	Friar
" 153, " 32.....	<i>conditorum</i>	<i>conditorem</i>





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